

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision : 18-07-2024

.....Petitioner

.....Respondent(s)

Present: Mr. A.S Virk, Advocate
for the petitioner.

Mr. Satnampreet Singh, DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance raised by the petitioner is that the claim of the petitioner for grant of compassionate appointment has wrongly been rejected by taking a plea that the father of the petitioner though was in service but was on extension as he had already attained the age of superannuation.

Learned counsel for the petitioner argues that the benefit of the grant of compassionate appointment is to be given to an employee who dies while in service.

Learned counsel for the petitioner argues that there is no distinction between an employee, who dies before attaining the age of superannuation or, who dies while availing the benefit of extension in service. As per the learned counsel for the petitioner, once an employee was

in service and he dies while in service, the dependants are entitled to seek the benefit of compassionate appointment.

Learned counsel for the respondent further submits that though, a policy was issued on 27.12.2016 (Annexure P-4) that the employees on extension will be treated in service even for the grant of compassionate appointment, but the same was withdrawn on 29.03.2017 (Annexure P-16) hence, the claim of the petitioner for grant of compassionate ground has rightly been rejected.

I have heard learned counsel for the parties and have gone through the records of the case with their able assistance.

At the time of his death on 08.12.2014, the father of the petitioner was in service though, availing the benefit of extension in service after attaining the age of superannuation. Once the respondents themselves issued the instructions that the employees who are in extension, in case they die, the benefit of compassionate appointment can be claimed, even when the said instructions were withdrawn on 29.03.2017, the same has to be prospectively applicable and cannot be made applicable upon employee, who had died before the issuance of the instructions dated 29.03.2017.

In the present case, by withdrawing of instructions in the year 2017, which were applicable w.e.f 08.10.2012 (Annexure P-4), the crystallised right in favour of the petitioner to seek compassionate appointment cannot be taken away. The instructions which were applicable on the date of the death are to be taken up for consideration and not the subsequent instructions. The reliance can be placed upon the Full Bench judgment of this court CWP No.4303 of 2009 titled “*Krishna Kumari Vs. State of Haryana and ors.*” decided on 13.12.2016, according to which, for

the grant of benefit/compassionate appointment, the instructions which are applicable on the date of death are to be seen and not the date on which the consideration is being given.

Keeping in view of the above, the order rejecting the claim of the petitioner for consideration for compassionate appointment is set aside. The petitioner's claim for compassionate appointment be considered in accordance with the law and the said consideration be completed within a period of 3 months from the receipt of certified copy of this order.

Present petition is allowed as above.

Pending application, if any, also stand disposed off.

18-07-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO