



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19347-2018(O&M)

Date of decision: 14.10.2024

Rohit Kumar

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mrs. Kiran Bala Jain, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G. Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to give employment to the petitioner on compassionate grounds and also for challenging order at Annexure P-6 (wrongly typed as Annexure P-3 in head-note).

2. Learned counsel appearing on behalf of the petitioner submitted that father of the petitioner namely late Sh. Narain Dass expired on 13.10.2004 during service, leaving behind his widow Smt. Meena Devi, two daughters and two sons. She submitted that after the death of the father of the petitioner, the mother of the petitioner moved an application before respondent-MC seeking employment for her son, Rohit but the same was not considered. She further submitted that the reason as to why the present



petitioner, who is the son of the aforesaid deceased was denied the benefit of compassionate appointment was that the mother of the petitioner, who is the widow of the deceased was already in service at the time of death of petitioner's father. Learned counsel while referring to the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 (hereinafter to be referred as 'Rules 2003') which were notified by Government of Haryana on 28.02.2003 vide Annexure P-4, submits that the family of the deceased was indigent and as per Rule 8 (a) of the aforesaid Rules 2003, the eligibility criteria for compassionate appointment provides that '*the family is indigent and deserves immediate assistance for relief from financial destitution*'. She further referred to Rule 8(b) of 2003 Rules, wherein it has been so provided that for the purpose of eligibility, the monthly income of the family shall not exceed Rs.6000/- per month, from all sources other than family pension and for this purpose, the income of the entire family of the deceased Government employee will be taken into account and not just the income of the dependent who has applied for appointment on compassionate grounds. Learned counsel also submitted that so far as the income of petitioner's mother is concerned although she was serving with the respondent-MC but her income was less than Rs.6,000/- per month and in this way the present petitioner is entitled for grant of compassionate appointment because dis-entitlement will come into play only when the income of the family exceeds Rs.6,000/- per month which is not the case here. She submitted that in this way directions may be issued to respondents to grant compassionate appointment to the petitioner.



3. On the other hand, learned counsel appearing on behalf of respondent-MC raised two fold submissions; firstly when the petitioner earlier filed a petition before this Court bearing CWP No.5098-2014, a direction was issued to respondents-authority to pass a comprehensive order in this regard, and in pursuance thereof, the impugned order dated 08.06.2018 (Annexure P-6) was passed and which clearly shows that the petitioner has been rendered disqualified in view of Rule 8 (d) of Rules 2003 and, therefore, in view of specific bar being created under the notification at Annexure P-4, compassionate appointment cannot be granted to the petitioner. Secondly, the father of the petitioner died in the year 2004 while the present writ petition was filed in the year 2018. As of today about 20 years have elapsed and in this regard, he referred to a judgment of Hon'ble Supreme Court in ***Umesh Kumar Nagpal vs.State of Haryana and others, 1994 (4) SCC 138*** to contend that it is only for taking the family out of the penury at the time of employee's death, that compassionate appointment can be granted and the same cannot be granted after a lapse of 20 years. He further submitted that even on the ground of delay the present writ petition is liable to be dismissed.

4. I have heard learned counsels for the parties.

5. One of the core issues involved in the present case is whether the petitioner who is seeking an appointment on compassionate ground is barred by the provision of law or not. In this regard reliance has been placed by both the learned counsels for the parties on Annexure P-4 which is a notification issued in the year 2003 by the Haryana Government under proviso to Article 309 of the Constitution of India. Both the learned counsels for the parties have referred to Rule 8 of the aforesaid notification. The stand of learned



counsel for the petitioner is that the petitioner's family was indigent and at the time of death of petitioner's father, the petitioner's mother although was an employee of the respondent-MC but her income was less than Rs.6,000/- per month and, therefore, the petitioner is entitled for compassionate appointment. However, the stand of learned counsel for respondent-MC is that there is a specific bar created under Rule 8(d) of Rules 2003, which provides where the spouse of the deceased is already in Government Service, no other dependent member shall be eligible for appointment or ex-gratia compassionate financial assistance and therefore, the petitioner is not entitled for the grant of compassionate appointment.

6. The aforesaid Rule 8 of Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules 2003 is reproduced as under:-

8. *"Criteria of eligibility:- The criteria for eligibility under these Rules shall be as under:-*

(a) The Family is indigent and deserves immediate assistance for relief from financial destitution.

(b) The monthly income of the family shall not exceed Rs.6000/- per month, from all sources other than family pension. For this purpose, the income of the entire family of the deceased Government employee will be taken into account and not just the income of the dependent who has applied for appointment on compassionate grounds.

(c) The applicant for appointment should be eligible and suitable for the post in all respects under the provision of the relevant recruitment rules.



(d) Where spouse of the deceased is already in Government service, no other dependent member shall be eligible for appointment or ex-gratia compassionate financial assistance.

(e) Married son of the deceased will be eligible only if no other member of the family is eligible for Government service and his spouse is not already in Government service and unmarried eligible dependent is not willing to join service and give an affidavit to this effect.

(f) Where dependent of the deceased Government employee does not become eligible for appointment on any ground or within three years of the death of the Government employee he/she shall not be eligible for the ex-gratia compassionate financial assistance also.

(g) The prescribed educational qualifications and lower/upper age limits, would not be relaxed for appointments.”

7. A perusal of aforesaid Rule 8 (d) would show that a specific embargo has been created by way of a notification issued by the Government of Haryana under proviso to Article 309 of the Constitution of India and is therefore having force of law. As per the aforesaid embargo where the spouse of the deceased is already in Government service, no other dependent member shall be eligible for appointment on compassionate ground. In the present case, admittedly the mother of the petitioner who is a widow of the deceased, Narain Dass, was in service in the same department and, therefore, this Court is of the considered view that prayer for the grant of appointment on compassionate ground is to be seen in the light of the aforesaid Rule 8 (d) of aforesaid Rules 2003. Considering the aforesaid express bar created under



Rule 8 (d) of aforesaid Rules 2003, this Court is of the considered view that the petitioner is not qualified to be considered for compassionate appointment.

8. Even otherwise also the present writ petition was filed in the year 2018 while the earlier writ petition was filed in the year 2014 whereas petitioner’s father passed away in the year 2004. Therefore, on the grounds of delay and considering the law laid down by the Hon’ble Supreme Court in the case of *Umesh Kumar Nagpal vs. State of Haryana and others (supra)*, the present petitioner does not deserve any benefit of compassionate appointment.

9. Consequently, finding no merit in the present petition, the same is hereby dismissed.

14.10.2024
shweta

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No