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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18763-2022
Date of decision: 18.01.2024

VIKASH

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Rajni Bala Rohilla, Advocate for
Mr. Shokeen Singh Verma, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Gurmeet S. Bajwa, Advocate
for the respondents No.2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction especially a writ in the nature of mandamus for directing the respondents to allow the petitioner to join on any post in the respondent-department on compassionate ground considering the financial condition, factual position of the family of the petitioner and the grounds mentioned in the writ petition.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had applied for compassionate appointment on account of death of his father, who was working as Assistant Manager in respondent-Bank and died on 09.10.2019. She further submitted that the respondent-Bank has

denied compassionate appointment to the petitioner on the ground that he was not dependent because he was married and having a minor son and also the mother of the petitioner had received ex gratia amount etc. She also submitted that so far as receiving of ex gratia amount etc. is concerned, it is a settled law that the same cannot become a ground for denial of compassionate appointment and so far as dependency of the petitioner on his father is concerned, the same has not even been considered by the respondent-Bank nor it has been so stated as to how and on what basis they have come to a conclusion that the petitioner was not a dependent. She further submitted that the petitioner was having no source of livelihood and he was facing acute financial problems being out of job and the mere fact that he is married and has a minor son cannot disentitle the petitioner for grant of compassionate appointment. She further submitted that another ground as to why the petitioner was not granted the benefit of compassionate appointment was that as per the statutory rules governing the respondent-Bank, the maximum age at which a person can be appointed is 28 years, whereas the petitioner had exceeded the age at that point of time and as per the Compassionate Appointment Policy (Annexure R-1), the appointments are to be made to the eligible and suitable persons under the provisions of the relevant Recruitment Rules. She also submitted that however, there is a specific provision of relaxations under Rule 7.1, which is a part of the aforesaid Compassionate Appointment Policy, wherein it has been so provided that the upper age limit can be relaxed in suitable cases and whenever it is found to be necessary. She further submitted that when no exercise was undertaken by the respondent-Bank for coming at a conclusion as to whether the petitioner was in need of the compassionate appointment or not, the aforesaid relaxation was

ought to have been invoked and there can be no mechanical exercise of power by the respondent-Bank in this regard and therefore, the action of the respondent-Bank in non-grant of compassionate appointment to the petitioner is unsustainable.

3. On the other hand, Mr. Gurmeet S. Bajwa, learned counsel for respondents No.2 and 3 while referring to the written statement which has been filed by the respondent-Bank submitted that the petitioner was not granted the compassionate appointment on the ground that he was over age and also that he was not dependent since as per the aforesaid Compassionate Appointment Policy itself, compassionate appointment could have been granted only to the persons who are dependents.

4. I have heard the learned counsel for the parties.

5. A perusal of the written statement which has been filed by the respondent-Bank would show that as per the aforesaid Compassionate Appointment Policy, although it has been so provided in Rule 5.1 and Rule 5.2 pertaining to eligibility that the compassionate appointment can be made only to the eligible and suitable candidates in all respects under the provisions of the relevant recruitment rules and as per the learned counsel for respondents No.2 and 3, the maximum age is 28 years but at the same time there is another provision in the Compassionate Appointment Policy in certain cases where relaxations can be made under Rule 7.1. However, a perusal of the written statement filed and the submissions of the learned counsel for respondents No.2 and 3 would show that there is nothing on the record to show as to whether any such application of mind for relaxation was made or not and therefore, it appears that it was only a mechanical exercise of power for not having even

considered Rule 7.1. This can be clear from the fact that a perusal of written statement also show that apparently no exercise was undertaken by the respondent-Bank to come to any conclusion as to whether the petitioner was facing any pecuniary and financial difficulties or not or as to whether he was living in penury.

6. This Court is of the view that mere fact that the petitioner was married and was having a minor son cannot disentitle the petitioner for grant of compassionate appointment unless there is a specific bar so contained in any of the Rules governing the services of the respondent-Bank. However, there is nothing in the written statement filed by the respondent-Bank as to whether there was any embargo or any bar in that regard or not. Whenever an authority is to consider as to whether a person should be granted compassionate appointment or not then it is a duty of the authority to undertake an exercise in true perspective and true spirit by assessing the financial condition of the family and the person who is claiming compassionate appointment in a proper manner and thereafter, when a conclusion is being arrived at only then an appropriate action is to be taken in a right perspective and it cannot be done in a mechanical manner.

7. In view of the aforesaid facts and circumstances of the present case, this Court is of the view that an exercise has to be undertaken by the respondent-Bank strictly in accordance with law.

8. Consequently, the present writ petition is disposed of with a direction to the respondent-Bank to consider the case of the petitioner afresh in the light of the aforesaid observations and pass a speaking order within a period

of three months from today after giving an adequate opportunity to the petitioner and enabling him to supply all the documents in this regard.

18.01.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No