

CWP-24341-2018 (O&M)

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2024:PHHC:069809



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24341-2018 (O&M)

Date of Decision: 17.05.2024

GAGANPREET SINGH SODHI

..... Petitioner

Versus

UNION OF INDIA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.S. Sodhi, Advocate
for the petitioner.

Mr. Somesh Gupta, Senior Panel Counsel
for respondent No.1-UOI.

Mr. Nonish Kumar, Advocate
for respondents No.2 to 4.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 18.11.2017 (Annexure P-12) whereby respondent has rejected his application seeking appointment on compassionate ground.

2. The petitioner's father was working with respondent-UCO Bank who passed away in harness. The petitioner on 12.09.2016 applied for compassionate appointment. The respondent by order dated 18.11.2017 (Annexure P-12) rejected his application on the ground that he is more than 30 years old whereas maximum age limit is 28 years.

3. Mr. S.S. Sodhi, Advocate submits that respondent has power to grant age relaxation, however, petitioner was not extended the



said benefit though similar benefit was extended to respondent No.5. The act of respondent is discriminatory in nature. The petitioner should be extended benefit of compassionate appointment.

4. Per contra, Mr. Nonish Kumar, Advocate submits that petitioner at the time of application was 30 years old and maximum prescribed age limit is 28 years. The Competent Authority did not find it appropriate to grant age relaxation, thus, his application was rejected. The respondent No.5 belongs to scheduled caste category. She at the time of filing application was 3 months over the prescribed age. She had applied on the basis of death of her mother and her father was not staying with her. Considering the total circumstances, the Competent Authority granted age relaxation to her.

5. I have heard the arguments of both sides and with the able assistance of learned counsels have perused the record.

6. The object of compassionate appointment or ex-gratia payment is to protect family of the deceased employee from destitution, penury and starvation. The object of the policy framed by the respondent is not to give a member of the deceased employee's family a post, much less a post for a post held by the deceased but to provide relief to the family of a deceased employee to tide over the sudden crisis brought about by his/her premature death. The relief envisaged would provide the distressed family immediate succor and financial assistance to recover from the unexpected deprivation of the income of the sole bread-winner of the family.

7. The Apex Court in *Umesh Kumar Nagpal Versus State of Haryana; (1994) 4 SCC 138*, has held that appointment on



compassionate ground is a concession and cannot be claimed as a matter of right especially after passage of substantial time. The relevant extracts of the said judgment read as:-

“2 The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis



that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

8. Concededly, the petitioner at the time of filing of application was 30 years old. The maximum prescribed age is 28 years. The petitioner was claiming appointment on compassionate ground. The appointment on compassionate ground is not a matter of right. It is a relaxation. The intent and purport of compassionate appointment is to tide over the family of the deceased from being driven to destitution and penury. The petitioner is claiming age relaxation on the sole ground that it was granted to respondent No.5. The petitioner at present is 38 years old. If respondent in peculiar facts and circumstances has granted age relaxation to one person, it does not create right in favour of everyone.

This Court cannot ask the respondent to grant age relaxation especially



when maximum prescribed age is 28 years and at present petitioner is 38 years old. If this Court directs the respondent to grant age relaxation despite above facts and circumstances, it would amount to re-writing the maximum age prescribed in the policy

8. In the wake of above discussion and findings, this Court finds that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

9. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

17.05.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>