

LPA-2327-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 23.09.2024.

Ram

...Appellant.

Versus

District and Sessions Judge, Kapurthala and another

....Respondents.

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Balbir Singh, Advocate and
Ms. Ramita Puri, Advocate
for the appellant.

Ms. Sukriti Gupta, Advocate
for the respondents.

LISA GILL, J. (Oral)

1. Prayer in this appeal is for setting aside order dated 21.09.2023 passed by learned Single Bench, whereby CWP-21172-2023 filed by appellant/ writ petitioner seeking appointment on compassionate ground, has been dismissed.

2. The facts necessary for adjudication of the matter are that father of the present appellant was stated to have been serving as Peon in the Court of learned Additional Civil Judge (Senior Division), Phagwara. He unfortunately passed away on 22.05.2023, while in service. Father of writ petitioner left behind two sons, one of whom is the petitioner and one daughter. Application dated 25.11.2013 was filed by the writ petitioner

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seeking appointment to the post of Peon on compassionate ground, but his claim was rejected on 15.11.2017 (Annexure P-12 with writ petition). Writ petitioner filed CWP-19907-2023, challenging order dated 15.11.2017, however, the said writ petition was dismissed as withdrawn, with liberty to writ petitioner to file afresh while clarifying that in any petition, which may so be filed, all questions including the question of delay would be considered therein. Thereafter, CWP-21172-2023 from which present appeal arises was filed on 18.09.2023. This writ petition was dismissed by learned Single Bench on the ground of delay and laches. It was held that in any case the very purpose of affording appointment on compassionate basis was lost. Aggrieved of order dated 21.09.2023, present appeal has been filed.

3. Learned counsel for the appellant vehemently argued that order dated 02.11.2017, whereby appointment on compassionate basis, has been declined, is a totally non-speaking order, therefore wholly unsustainable. It is submitted that there is delay on the part of the appellant, neither is he guilty of laches because he continued to represent regularly before the department itself, but to no avail. It is, therefore, prayed that this appeal be allowed and CWP-21172-2023 filed by the appellant be allowed as prayed for.

4. Learned counsel for the respondents (on advance notice) has opposed this appeal and dismissal thereof has been sought.

5. We have heard learned counsel for the parties and have perused the file with their able assistance. However, we do not find any ground whatsoever to cause interference of this matter. It is the matter of fact that

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father of appellant had passed away on 22.05.2013. Application dated 25.11.2013 was dismissed way back in November, 2017. Though it is submitted by learned counsel for appellant that there was continuous representation before the department throughout, no such document on record has been pointed out. Moreover, even if it is accepted that appellant kept representing before the department, submission of such representations by themselves cannot extend the cause of action for the appellant.

6. Furthermore, it is noted that appointment on compassionate basis is not an alternate source of recruitment and there is no vested right, which is available to the appellant in this regard. On a pointed query, learned counsel for the appellant informs that the appellant is now about 42 years of age, married and having two children. It has been held by Hon'ble the Supreme Court in **Jagdish Prasad Vs. State of Bihar, (1996) 1 SCC 301**, that appointment on compassionate grounds should be confined to the purpose sought to be achieved and idea is not to provide endless compassion.

8. In the given factual matrix, learned Single Bench has correctly dismissed the writ petition while placing reliance upon judgment of Hon'ble the Supreme Court in **State of West Bengal Vs. Debabrata Tiwari and others**, reported as 2023 SCC Online SC 219, wherein reference has been made to earlier judgments of Hon'ble Supreme Court i.e. **Umesh Kumar Nagpal Vs. State of Haryana, (1994) 4 SCC 138**; **Haryana State Electricity Board Vs. Hakim Singh, (1997) 8 SCC 85**; **Jagdish Prasad Vs. State of Bihar (1996) 1 SCC 301** and **State of Jammu and Kashmir**

Vs. Sajad Ahmed Mir, AIR 2006 SC 2743.

9. No other argument has been addressed.
10. Learned counsel for appellant is unable to point out any illegality, infirmity or irregularity in the impugned order dated 21.09.2023 passed by learned Single Judge.
11. It is to be noted at this stage that there is a delay of 315 days in filing of this appeal, the only reason so mentioned in the application and argued before us, is that appellant is a poor person, therefore, the delay of 315 days has occurred due to financial stringency.
12. In the given facts and circumstances, we do not find the above said explanation to be a reasonable one for the delay so caused. The averments are not substantiated in any manner. Therefore, the application for condonation of delay as well as the appeal on merits are dismissed.
13. Pending applications, if any, stand disposed of accordingly.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

23.09.2024.

komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No