



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

**CWP No.24787 of 2022 (O&M)
Date of Decision: 11.11.2024**

Sanjeev Kumar

..... Petitioner

Versus

Registrar General,
Punjab and Haryana High Court, Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Naresh Gopal Sharma, Advocate for the petitioner.

Ms. Gagandeep Kaur, Advocate for the respondent.

MAHABIR SINGH SINDHU, J.

CM-163-CWP-2024

Application for placing on record rejoinder, along with Annexure P-13, with further prayer seeking exemption from filing certified copy thereof.

Notice of the application to the non-applicant/respondent.

Ms. Gagandeep Kaur, Advocate accepts notice on behalf of the non-applicant/respondent and raises no objection to the present application.

In view of the above and for the reasons mentioned in the application, same is allowed subject to all just exceptions. Rejoinder, along with Annexure P-13, is taken on record. Registry will tag the same at appropriate place.

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MAIN CASE

Present petition has been filed under Article 226 of the Constitution for quashing of the impugned order dated 23.08.2022 (P-12), passed by the respondent, vide which claim of the petitioner for compassionate appointment has been rejected. Further prayer is for directing the respondent to give appointment to the petitioner on compassionate basis in view of Policy dated 21.11.2002 (P-2).

(2) In brief, on 27.04.2021, father of petitioner, namely, Ved Prakash was appointed as Daftri on the establishment of respondent. He died in harness on 27.04.2021 and is survived by five children (two sons and three daughters).

(2.1) Government of Punjab, Department of Personnel (Personnel Policies-II Branch), vide letter No.11/105/98/4PPH-14420 dated 21.11.2002 issued a Policy for compassionate appointments-2002 (*for short 'Policy of 2002'*) [P-2], duly adopted by the respondent, for grant of employment in the State Services on compassionate grounds.

(2.2) Petitioner, who is a matriculate, and being son of deceased employee, submitted an application dated 06.07.2021 (P-4) to the respondent for granting suitable employment on compassionate basis.

(2.3) Respondent vide letter dated 06.08.2021 informed the petitioner to apply for compassionate appointment in a prescribed format along with all affidavits of other family members.

(2.4) On 12.10.2021, petitioner submitted the application after completing all formalities as required by the respondent; but the same was

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returned to the petitioner on the premise that payment of DCRG has not been sanctioned.

(2.5) Again on 10.02.2022, after getting its sanction, petitioner submitted above application along with all relevant documents.

(2.6) Also alleged that during the pendency of aforesaid application, brother of petitioner, who has already been ousted/disowned by deceased employee vide affidavit dated 12.01.2021 (P-9), submitted false application/complaint dated 07.01.2022 for stoppage of all the payments and benefits of deceased employee to the petitioner as well as other family members. Thereafter, respondent sought clarification from the petitioner, who filed reply along with other documents. Despite numerous visits, neither any response has been given by the respondent; nor petitioner was given any chance of personal hearing.

(2.7) Ultimately, petitioner submitted another request dated 08.08.2022 (P-11) to the respondent seeking the status of his previous application for compassionate appointment. In response, the respondent vide letter dated 23.08.2022 rejected the claim of petitioner without assigning any reason. Hence, the present petition.

(3) Contends that petitioner has been harassed by the respondent and his lawful claim has been rejected on the premise that petitioner is not fulfilling the requirement of Policy of 2002. Further contends that no proper opportunity of hearing was given to the petitioner while deciding his claim. Still further contends that even monetary benefits related to his deceased father have not been paid to him as well as his sisters. Lastly contends that no

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valid reason has been provided for denying compassionate appointment to him, which is in gross violation of Articles 14 & 16 of the Constitution.

(4) *Per contra*, learned Counsel for the respondent refuted the aforesaid submissions by submitting that claim of the petitioner has rightly been rejected. Further submits that all the monetary benefits, including leave encashment, GPF and Deposit Linked Insurance Scheme, as alleged by the petitioner, have already been paid to all the legal heirs, including petitioner, of deceased employee, vide Sanction Order dated 14.03.2022 (R-1). Still further submits that proceedings of Meeting dated 12.07.2022, convened for discussing case of petitioner for compassionate appointment, have already been provided to him through RTI Branch; hence, his claim has rightly been rejected.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is necessary to reproduce the impugned order and which reads as under:-

“I am directed to refer you on the subject cited above and to inform you that your request 06.07.2021 for appointment on compassionate grounds has been considered and rejected being not fulfilling the requirements as prescribed in instructions dated 21.11.2002 issued by the Government of Punjab for compassionate appointment, applicable in this Court.”

(7) A perusal of the impugned order reveals that it is absolutely non-speaking and no reason, much less to say any valid reason, has been assigned by the quarter concerned.



(8) It is quite elementary that giving of reason(s) is one of the fundamentals of good administration. Hon'ble the Supreme Court in "**Union of India and others Versus Jai Prakash Singh and another**", AIR 2007 SC 1363, in para 7 & 8 of the judgment, observed as under:-

"7. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable.

8. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR 120) it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can known why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons

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for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quashi-judicial performance."

(9) The aforesaid view has been reiterated by Hon’ble the Supreme Court, in para Nos.8 & 9, in “**Daya Ram Versus Raghunath and others**”, (2007) 11 SCC 241.

(10) In view of the above, there is no hesitation to hold that impugned order is indefensible in law; hence, liable to be invalidated.

(11) Consequently, present petition is allowed; impugned order dated 23.08.2022 (P-12) is quashed and set aside.

The competent authority is directed to re-consider the claim of petitioner by giving reasons and to pass fresh order in accordance with law.

Pending application(s), if any, shall also stand disposed off.

11th November, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes