

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
Neutral Citation No. 2024:PHHC:044738-DB**

(107) **LPA-1595-2023**
Decided on : 03.04.2024

Gagandeep SinghAppellant(s)

Versus

State of Punjab and othersRespondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr. Sunil Agnihotri, Advocate for the appellant.

G.S. Sandhawalia, Acting Chief Justice (Oral)

Consideration in the present letters patent appeal is sought of the judgment dated 25.08.2023 passed by the Learned Single Judge in **CWP-18737-2023 ‘Gagandeep Singh Vs. State of Punjab and others’**, whereby the writ petition was dismissed.

2. The claim of the writ petitioner as such for appointment on a higher post after having acquired appointment on compassionate basis was rejected. The Learned Single Judge relied upon a circular dated 21.11.2002 (Annexure P-12) and held that instructions are in consonance with the principle underlying offering of the compassionate appointment.

3. The argument as such which has now been raised by counsel for the appellant is that right to acquire higher post was not given, as per notification dated 03.07.2008 (Annexure P-13) by which the Government had decided to add provision under Para 13(a) in the earlier notifications dated

21.11.2002 (Annexure P-12) and 28.12.2005. The same, thus, provided that in case of death of the employee the minor children who had not completed his/her study and spouse was not in a position to join the Government job then a dependent child would be allowed to apply for compassionate appointment within a period of one year from the date of attaining the age and educational qualifications for a Group-C or D appointment in government. It is, thus, the case of the counsel for the appellant that the said aspect was not kept into consideration and the appellant having been born on 28.11.1998 was not allowed to complete his education and apply on the higher post in terms of the settled policy.

4. It is pertinent to notice that on an earlier occasion the petitioner had approached this Court in CWP-23777-2021, wherein this Court had given an opportunity to the appellant to approach the authorities firstly, vide order dated 24.11.2021 (Annexure P-17) and the authorities were directed to decide the representation expeditiously. Eventually the order was passed rejecting his case by passing a speaking order dated 02.06.2023 (Annexure P-18) which was subject matter of challenge in the writ petition. The Commissioner, Jalandhar Division, Jalandhar had examined the issue in a threadbare and resultantly came to the conclusion that after the death of the father of the present appellant who was serving as a Patwari, who expired on 22.09.2014 due to an accident, an application had been received on 05.01.2015 through the mother that job be provided to her son, namely, Gagandeep Singh.

5. It is to be noticed that he was at that point of time only 17 years old having academic qualification of 10+1. She had thereafter filed an

application on 20.03.2015 that the case be kept pending. However, thereafter an application was also filed on 30.06.2015 (Annexure P-4) by the present appellant that he be given a job on humanitarian grounds, since he was unemployed and 10+1 pass. In such circumstances, letter dated 02.12.2015 (Annexure P-5) was issued to him that he had less qualification for the post of Patwari. He, thereafter, had filed another application dated 30.12.2015 (Annexure P-6) that he was in a critically economical poor situation and he would accept the post of Class-IV as Sevadar and he should be given the appointment to enable him to cater his family. He had left his right open of promotion to the post of Patwari, if he acquired the prescribed qualification. Another application was also filed on 11.02.2016 (Annexure P-8) stressing for the job and wanting to keep his right reserved, since he had been informed that he could not be promoted to the post of Patwari, which he had objected to get the job of Sevadar, as per letter dated 01.02.2016 (Annexure P-7). On 16.03.2016 (Annexure P-9) he was again informed that if he want to join the job of Class-IV post, he could apply immediately, which he had done on 27.03.2016 (Annexure P-10) and was offered the necessary post on 11.01.2017 (Annexure P-11). The acceptance reads as under:-

“Sub: Request for job in favour of Gagandeep Singh S/o Late Shri late Joginder Singh Patwari on mercy Grounds.

Reference: Your Office letter No. 1284 S.K./P-1 dated 16-3-16.

As mentioned in the above subject matter that as per Govt. instruction I was to get job due to sudden death of my father while on duty but you have intimated to me that as per my qualification I am eligible for Class-IV.

That my family is passing through a economically critical period and it is very difficult to survive because a long time has passed to the death of my father, so I am opting for Class-IV employment and requesting to provide me job at earliest.

It is repeatedly requested that my appointment letter for Class-IV be issued at earliest.”

6. It is, thus, apparent that due to exigency of the family condition at that point of time, he had accepted the post. The Apex Court in the case of **Umesh Kumar Nagpal Vs. State of Haryana, (1994) SCC (4) 138** has held that compassionate appointment is not a vested right and is to be governed by the policies. It is not an alternative mode of recruitment and only to get over the exigency is an exception granted as the family faces on account of the death of the bread-earner. The relevant part of the said judgment reads as under:-

“6. .For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

7. In such circumstances, we are of the considered opinion that once having accepted the said appointment on 11.01.2017 and, thereafter, seeking employment at a higher level by moving another application after 10 years is not justified. Resultantly, we are of the considered opinion that the order

rejecting his case which has been duly upheld by the Learned Single Judge does not suffer from any infirmity, keeping in view the settled law.

8. Resultantly, there is no merit in the present appeal and the same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

03.04.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No