

CWP-20372 of 2018

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

CWP-20372 of 2018

Date of decision: 26.04.2024

Manpreet Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Jagraj Singh Khiva, Advocate, and
Ms. Geetanjali Sharma, Advocate,
for the petitioner.

Ms. Arundhati Kulshreshta, AAG, Punjab.

Mr. Arav Gupta, Advocate,
for respondents No.2 to 4.

NAMIT KUMAR, J

1. Instant writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India seeking a writ of *mandamus* for directing the respondents to consider the claim of the petitioner for appointment on compassionate grounds in view of the Punjab Government policy dated 21.11.2002 (Annexure P-4), on account of death of the father of the petitioner, who died during service.

2. The brief facts, as have been pleaded in the present petition, are that father of the petitioner, Sh. Randhir Singh was working as Assistant Lineman in the office of respondent No.2 and he unfortunately died on 04.11.2011, while in service, leaving behind his mother, namely, Jangir Kaur, wife Ramjit Kaur and the petitioner and all the members of his family were dependent upon him at the time of

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his death and since there is no source of income, therefore, the petitioner is entitled to be considered for compassionate appointment. It is the case of the petitioner that at the time of death of his father, he was 13 years of age as his date of birth is 11.09.1998. After the death of the father of the petitioner, mother of the petitioner approached the respondent-department for appointing the petitioner, however, she was advised that she should approach the department when the petitioner completes the age of 18 years. The petitioner attained the age of 18 years in the month of September, 2016 and also passed matriculation in the year 2016 and consequently, the mother of the petitioner approached the respondent-department for considering the claim of the petitioner by submitting application on 05.01.2017 for giving employment to her son i.e. the present petitioner on compassionate grounds and since no action was taken on the said application, therefore, the petitioner served a legal notice dated 18.12.2017, through his counsel but to no avail. It is further averred that during this period 30 other persons have been appointed on compassionate grounds vide office order dated 31.03.2016 and thereafter on 10.06.2016 other 39 persons have been appointed on compassionate basis, however, claim of the petitioner has not been considered. Hence, the present writ petition.

3. On issuance of notice of motion, written statement has been filed on behalf of respondents No.1 to 4, wherein it has been stated that at the time of death of father of the petitioner, policy issued vide Circular No.03/2010 dated 07.06.2010 (Annexure R4/1) was in

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operation, whereby dependents of deceased employee were given right to choose between employment or solatium. It was further clarified in the said circular that the decision shall be final and cannot be changed lateron. Said circular was approved by the Board of Directors on 06.07.2010. It is further stated that upon the death of Randhir Singh (father of the petitioner), Assistant Lineman, working under DS Division Lehragaga Circle Sangrur, his widow Ramjit Kaur, through her letter dated 30.11.2011, requested for releasing all service benefits of her husband. She further applied for solatium amount to the office of DS Division Lehragaga along with all required documents i.e. form for compassionate employment/solatium duly filled by Ramjit Kaur, her affidavit, no objection certificate from other dependents, ration card, voter card, death certificate etc. In her affidavit, widow of deceased Randhir Singh, clearly stated about the legal dependants of her husband and further stated that she is not willing to do job in Punjab State Power Corporation and wants solatium amount of Rs.3,00,000/- as per instructions of Punjab State Power Corporation. In the said affidavit of Ramjit Kaur, widow of deceased employee Randhir Singh, she has expressly and clearly chosen her right of solatium. It is further stated that accordingly the case of Ramjit Kaur claiming solatium was sent by the office of DS Division Lehragaga to higher authorities for further proceedings. The office of Chief Administrator, IR, Non Gazetted Section-2, Patiala, had issued office order No.232/ENG-7(1) dated 10.07.2012 vide which Ramjit Kaur wife of deceased employee Randhir Singh, Assistant Lineman, was issued



solatium amount of Rs.3,00,000/- in lieu of employment on compassionate grounds as per instructions of Punjab State Power Corporation Board. The office of DS Division Lehragaga had issued cheque No.091042 dated 30.07.2012 amounting to Rs.3,00,000/- to Ramjit Kaur wife of deceased Randhir Singh, Assistant Lineman, which was credited to her account vide Annexure R4/5. The case of the deceased employee was dealt with in accordance with the prevailing instructions at the time of death and hence no fault can be attributed in the same.

4. Affidavit of Ramjit Kaur (Annexure R-4/4) reads as under:

“Affidavit

I Ramjit Kaur widow of Randhir Singh, resident of Village Falera, Tehsil Lehra, District Sangrur (Punjab) do hereby solemnly affirm and declare that: -

- 1. That Randhir Singh S/o Karnail Singh was my legally husband who served under Sub-division Suburban PSPCL Lehragaga as Assistant Lineman.*
- 2. That my husband expired on 04.11.2011.*
- 3. That I am the legally wife of my husband. I have neither solemnised second marriage nor arranged any Kerewa marriage.*
- 4. That I had not taken benefit of my husband service, if had taken then I will be self-responsible for it.*
- 5. That my husband’s legally dependents are as below.*

<i>Name</i>	<i>Relation</i>	<i>Date of Birth</i>
<i>(1) Smt. Jangeer Kaur</i>	<i>Mother</i>	<i>.....</i>
<i>(2) Ramjit Kaur</i>	<i>Wife</i>	<i>03/05/1973</i>
<i>(3) Manpreet Singh</i>	<i>Son</i>	<i>11/09/1998</i>

- 6. That the benefit payable to my husband, will be paid to me and I am not willing to do job in Board.*

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7. *That I will oblige all the regulations and rules of the Board.*
8. *That I am not doing job in Government/Non Government institution.*
9. *That I belong to Sikh caste.*
10. *That I am not willing to do job. I will be paid solatium amount of Rs.3,00,000/-.*

Sd/-
Deponent
(Ramjit Kaur)

That the contents of my affidavit are true and correct. No part of it is false and nothing material has been concealed therein.

Sd/-
Deponent
(Ramjit Kaur)”

5. Once the mother of the petitioner has already availed the benefit of solatium on 30.07.2012, the petitioner cannot claim compassionate appointment at this point of time. It is settled law that the purpose of compassionate appointment is to overcome immediate financial crisis that may occur due to death of only bread earner of family. Further the claim of the petitioner cannot be accepted at this belated stage after 13 years as admittedly, the father of the petitioner died on 04.11.2011.

6. Hon'ble Supreme Court in ***Umesh Kumar Nagpal v. State of Haryana, 1994(4) SCC 138*** has held 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

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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. Hon’ble Supreme Court while considering the similar issue in ***Union of India and another v. B. Kishore, 2011(3) S.C.T. 18*** has held as under: -

*“6. In **State Bank of India v. Raj Kumar, 2010(4) S.C.T. 77 : (2010) 11 SCC 661**, elucidating the nature of the scheme of compassionate appointments this Court observed :-*

"It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under

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the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the applicant."

8. To the same effect is the judgment of a Division Bench of this Court in ***Rajesh Kumar v. Union of India and others, 2011(4) S.C.T. 218***, wherein it has been held as under: -

*"4. Having heard learned counsel for the parties we are of the considered view that the view taken by the Tribunal does not suffer from any legal infirmity warranting interference of this Court. The Tribunal has rightly observed that the compassionate appointment is not a mode of entry into service but it is only to help the surviving members of the family to overcome sudden financial crisis created by the sudden death of the bread winner, as has been held by Hon'ble the Supreme Court in the cases of ***National Hydro v. Nanak Chand, 2004(4) S.C.T. 724 : (2004) 12 SCC 487 : [2005 (1) SLR 1 (SC)] and Hindustan Aeronautics Limited v. Smt. A. Radhika Thirumalal 1997(1) S.C.T. 329 : 1996 (9) SC 197 : [1996 (6) SLR 21 (SC)]***. Such an appointment cannot be secured as a matter of right as it is an exception to Articles 14 and 16(1) of the Constitution. The father of the applicant-petitioner expired on 19.7.2004. It cannot be concluded that the situation created by his death is still prevailing and continuing. Hon'ble the Supreme Court in the cases of ***Santosh Kumar Dubey v. State of U.P. 481 2009(3) S.C.T. 629 : 2009(4) Recent Apex Judgments (R.A.J.) 563 : [2010 (1) SLR 261 (SC)] and Mumtaz Yunus Mulani v. State of Maharashtra, 2008(2) S.C.T. 669 : 2008(3) Recent Apex Judgments (R.A.J.) 263 : (2008)11 SCC 384 : [2008 (3) SLR 782 (SC)]***, has held that compassionate appointment after lapse of number of years*

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is impermissible. There is, thus, no merit in the instant petition and accordingly the same is dismissed.”

9. In view of the above, the present petition is hereby dismissed with no order as to costs.

26.04.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No