

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

(114)

LPA-1900-2023 (O&M)

Decided on : 21.02.2024

Mangat Ram

.....Appellant(s)

Versus

General Manager, Head Office, State Bank of India, Sector 17-C,
Chandigarh & others

.....Respondent(s)

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

Present:- Mr.Vikas Malik, Advocate for
Mr.B.K.Saini, Advocate for the appellant.

G.S. Sandhawalia, ACJ (Oral)

CM-4771-LPA-2023

1. Application for condoning the delay of 270 days in filing the present appeal is allowed in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 270 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

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3. Consideration in the present appeal is to the judgment passed by the Learned Single Judge in CWP-9582-2022 whereby the writ petition was dismissed on 27.01.2023 rejecting the claim of compassionate appointment raised by the appellant while noting as under:

“After hearing the learned counsel and considering the averments, this Court finds that as per the policy of the Bank, only those dependant family members would be eligible for compassionate appointment, where the permanent employee dies while performing the official duty, as a result of terrorism, robbery or dacoity or dies after five years of first appointment,

but before reaching the age of 30 years. There is nothing on record to indicate that the case of the petitioner was covered under the said policy.

During the course of hearing, it is not disputed by learned counsel that petitioner's father joined the service in the year 1982, who was nearing his retirement age when he passed away, and the petitioner got married during the life time of his father and has two children. Thus, the claim that the petitioner is without any source of income is only bald averment, which is not worth acceptance considering the other attending circumstances. A perusal of the impugned order shows that the respondent No.1-Bank has given valid reasons while rejecting the claim of the petitioner.

No argument has been raised to press the relief for quashing the policy dated 09.02.2021 (Annexure P-2).

Consequently, in view of the above discussion, this Court does not find it to be a fit case for exercise of extra ordinary writ jurisdiction.

Dismissed.”

4. We have perused the communication dated 09.02.2021 (Annexure P-2) which is subject matter of challenge and which is also very categorical that it is only in certain exceptional conditions compassionate appointment is to be given. Apparently, the appellant does not fall within those exceptions.

5. The Apex Court has time and again held that employment by way of compassionate appointment is an exception to the general rule. Reliance can be placed upon the observations of the Apex Court in **Umesh Kumar Nagpal Vs. State of Haryana & others, 1994 (4) SCC 138** whereby it has been observed that appointments under the scheme of compassionate appointment are not appointments in the normal mode but are an exception and it is for the purpose to enable the penurious family

of the deceased-employee to tide over the sudden financial crises and not to provide employment as a normal course. The relevant observations read as under:-

“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 Applicationns and met-it. No other mode of appointment nor any other consideration is 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 dependent 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.”

6. Keeping in view the above, we are of the considered opinion that the discretion which has been exercised by the Learned Single Judge is well justified and there is no valid reason to interfere in the same. Resultantly, the present appeal is hereby dismissed in limine.

(G.S. SANDHAWALIA)

ACTING CHIEF JUSTICE

February 21st, 2024

Sailesh

(LAPITA BANERJI)

JUDGE

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