

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP-19615-2012

DECIDED ON:21.11.2025

CHANDER MOHAN

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. GPS Bal, Advocate
for the petitioner

Ms.Ruchi Sekhri, Addl. A.G Haryana

SANDEEP MOUDGIL, J

1. Prayer

The petitioner seeks quashing of the impugned order dated 14/16.08.2012 (Annexure P-4) whereby his claim for compassionate appointment was rejected by the respondents.

2. Brief Facts

The petitioner is the son of late Shri Ram Kishan, who served as an Inspector in the Food and Supplies Department. Shri Ram Kishan was initially convicted in a criminal case, but his conviction was later set aside by this Court vide order dated 04.05.1981, and the dismissal of the Special Leave Petition by the Supreme Court vide order dated 10.12.1982 which led to his reinstatement on 02.02.1984.

Subsequently, he was dismissed from service on 04.12.1989 after departmental proceedings. He challenged the dismissal in CWP No. 11786 of 1993, but during its pendency, he passed away on 22.02.1995. The writ petition was ultimately allowed vide order dated 22.02.2010 (Annexure P-1), quashing the dismissal and directing release of all retiral benefits.

Following the judgment, the widow of the deceased employee submitted representations seeking release of dues and compassionate appointment for the petitioner. While the pensionary benefits were released during contempt proceedings, the petitioner's request for compassionate appointment was rejected on 14/16.08.2012 on the basis of the Haryana Compassionate Assistance Rules, 2006.

Aggrieved by the rejection, he has filed the present writ petition.

3. Contentions

On behalf of Petitioner

Learned counsel for the petitioner contends that the rejection of his claim for compassionate appointment is wholly arbitrary and unsustainable, as the authorities have incorrectly applied the Haryana Compassionate Assistance Rules, 2006. It is urged that his claim had arisen much earlier and was required to be considered under the policy/notification dated 31.03.2003 providing for ex-gratia compassionate appointment.

The counsel submits that he had applied as far back as 1996, but the respondents kept the matter pending solely on the ground of the pending writ filed by his father, a delay attributable entirely to the department.

It is asserted that once this Court quashed the dismissal order of his father in 2010 and deemed him reinstated for all purposes, the petitioner became entitled to be considered as a dependant of a deceased employee who died while in service.

Lastly it is argued that the impugned order is non-speaking, ignores the 2003 policy altogether, and suffers from misapplication of law. The petitioner, therefore, seeks quashing of the order dated 14/16.08.2012 and a direction for compassionate appointment or, alternatively, financial assistance

On behalf of Respondents

Per contra, learned counsel for the respondents submit that the petitioner is not entitled to compassionate appointment, as such appointments stand abolished by virtue of the Haryana Compassionate Assistance Rules, 2006, which were in force when the petitioner's request was considered in 2012.

It is contended that compassionate appointment is not a vested right but a concession, and therefore the policy prevailing on the date of consideration i.e., the 2006 Rules must govern the field.

It is further argued that the petitioner's father was not in service at the time of his death in 1995, as he had been dismissed in 1989, and hence the petitioner cannot claim benefits available to dependants of employees who die in harness.

It is also emphasised that the petitioner's application was submitted after an inordinate delay and that earlier government instructions required dependants to apply within three years of the employee's death. They assert that all retiral benefits have already been released to the family and that no further right accrues to the petitioner, rendering the writ petition liable to dismissal.

4. Analysis

Having considered the rival submissions and examined the record, this Court is of the considered view that even under the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 ("2006 Rules"), the petitioner's claim could not have been rejected in the manner done by the respondents.

To begin with the discussion on the legal rights and benefit

judgment dated 22.02.2010 in CWP No. 11786 of 1993, whereby the dismissal of the petitioner's father was quashed and he was held to be deemed in continuous service till the date of his death on 22.02.1995.

It is trite in service jurisprudence that when a punishment order is set aside, the legal fiction is that the employee was never dismissed, unless the Court restricts relief. Consequently, the petitioner's father must be treated as having died while in service, bringing the case squarely within the ambit of compassionate assistance contemplated under the 2006 Rules.

However, the respondents rejected the claim on the ground that compassionate appointments stood discontinued by the 2006 Rules and that the petitioner applied belatedly. This reasoning cannot be accepted as it is a settled principle that compassionate schemes, whether providing for appointment or financial assistance must be construed with a humanitarian approach, and the employer cannot defeat a legitimate claim by relying on its own administrative delays or by invoking subsequent restrictive amendments. Guidance may be drawn from the judgement rendered by the Supreme Court in "**Balbir Kaur v. Steel Authority of India, (2000) 6 SCC 493**", emphasised that compassionate assistance is a social welfare measure intended to cushion the immediate hardship of the family and cannot be diluted by a rigid or hyper-technical interpretation. Relevant extract of the same is as follows:

8. The employer being Steel Authority of India, admittedly an authority within the meaning of Article 12 has thus an obligation to act in terms of the avowed objective of social and economic justice as enshrined in the Constitution but has the authority in the facts of the matters under consideration acted like a model and an ideal employer. It is in this factual backdrop, the issue needs an answer as to whether we have been able to obtain the benefit of constitutional philosophy of social and economic justice or not. Have the lofty ideals which the founding fathers placed before us any effect in our daily life - the answer cannot however but be in the negative - what happens to the constitutional philosophy as is available in the Constitution itself, which we ourselves have so fondly conferred on to ourselves. The socialistic pattern of society as envisaged in the Constitution has to be attributed its full meaning. A person dies while taking the wife to a hospital and the cry of the lady for bare subsistence would go unheeded on certain technicality. The bread earner is no longer available and prayer for compassionate appointment would be denied, as "it is likely to

open a Pandora's Box" - This is the resultant effect of our entry into the new millennium. Can the law Courts be a mute spectator in the matter of denial of such a relief to the horrendous sufferings of an employee's family by reason of the death of the bread-earner.

In the present case, the petitioner's mother had approached the authorities after the death of her husband/employee, and the request remained pending solely because the respondents continued to take the stand that the deceased had been dismissed. Moreover, when this Court held the dismissal to be illegal in 2010, the department was duty-bound to consider the claim under the prevailing compassionate assistance framework.

The 2006 Rules if properly interpreted do not extinguish a pre-existing claim, rather, they provide a structured mechanism for financial support in lieu of compassionate appointment. Rule 5 of the 2006 Rules expressly enables dependants of deceased employees to receive financial assistance equivalent to the last drawn salary. Also, Rule 6 of the 2006 Rules clarify that all the pending cases, such as that of the petitioner shall be covered under the 2006 Rules and the same cannot be denied by the respondents.

Rule 6 – Pending cases

All pending cases of ex-gratia assistance shall be covered under the new rules. The calculation of the period and payment shall be made to such cases from the date of notification of these rules. However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependent of the Deceased Government Employees Rules, 2006

Moreover, the impugned order dated 14/16.08.2012 is non-speaking and perfunctory. It does not consider the effect of the 2010 judgment, the retrospective restoration of service, the settled law on compassionate claims, or the humanitarian object underlying the scheme. An administrative authority exercising statutory discretion is required to record reasons that demonstrate meaningful application of mind. Failure to do so renders the action of the respondents arbitrary and violative of Article 14 of the Constitution of India,

as held by the apex court in “*Assistant Commissioner, Commercial Tax v. Shukla & Bros.*, (2010) 4 SCC 785, wherein it was observed that

10. The Supreme Court in the case of S.N. Mukherjee v. Union of India [(1990) 4 SCC 594], while referring to the practice adopted and insistence placed by the Courts in United States, emphasised the importance of recording of reasons for decisions by the administrative authorities and tribunals. It said "administrative process will best be vindicated by clarity in its exercise". To enable the Courts to exercise the power of review in consonance with settled principles, the authorities are advised of the considerations underlining the action under review. This Court with approval stated:-

"the orderly running of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained."

It must be borne in mind that the policy of compassionate appointment is not a mere administrative concession but a salutary instrument of the Welfare State, intended to extend timely relief to families suddenly rendered destitute by the loss of their sole breadwinner in State service. Therefore its implementation calls for a broad, humane, and purposive interpretation, consistent with the constitutional obligation to protect those on the economic margins. Such families deserve **considerate treatment**, not the burden of technical objections or rigid procedural niceties, particularly where such objections run contrary to the principles laid down by the Supreme Court. Reference may appropriately be made to decision in the case of “*Secretary, H.S.E.B. v. Suresh 1993 (3) SCC 601*”, wherein the apex Court underscored that adjudication in such matters must be guided by the public interest, informed by justice, equity, and good conscience, ensuring that the law remains an instrument of relief rather than an hardship.

5. Conclusion

For the reasons discussed above, the rejection of the petitioner’s claim under the 2006 Rules cannot be sustained. The impugned order of rejection dated 14/16.08.2012 (Annexure P-4) is hereby quashed.

Accordingly, the present writ petition is allowed. The respondents

are directed to extend financial assistance as per the Haryana Compassionate Assistance to Dependents of the Deceased Government Employees Rules, 2006.

The same shall be complied forthwith within a period of 4 weeks from the receipt of certified copy of this order.

Pending applications, if any, stand disposed.

21.11.2025
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No