

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25925-2016 (O&M)

Decided on 04.12.2025

Harbhajan Singh

... Petitioner

VS.

National Fertilizers Ltd. & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Arun Chandra, Advocate for the petitioner

Mr. Ashwani Talwar, Sr.Advocate along with
Messrs Nikhil Sehrawat, Siddheshwar Hans and Deepak Goyat,
Advocates, for the respondents

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuing a writ of certiorari for quashing the impugned order dated 14.09.2016 passed by respondent No.3 (Annexure P5) and to direct the respondents to issue appointment letter to the petitioner in the light of the policy dated 01.05.1974 (Annexure P4).

(2). Learned counsel for the petitioner submits that the petitioner filed a suit for declaration that his father Harpal Singh, who died in harness while serving as Driver, on 07.09.1997 and immediate thereafter, he applied for compassionate appointment on 20.11.1997, however, his requests were rejected on 12.03.2001 with an observation that the compassionate appointment have been dispensed with since 11.12.1998. He submits that the suit was decreed in favour of the petitioner/appellant vide judgment and decree dated 16.07.2003 passed by Civil Judge (Junior Division), Bathinda (Annexure P1), however, the the appeal preferred thereagainst by the respondents was also partly accepted observing that the compassionate appointment is not a right vide judgment

dated 06.08.2004 (Annexure P2). The Regular Second Appeal No.3825 of 2004 preferred by the petitioner was allowed vide order dated 05.08.2016 (Annexure P3) holding directing the respondents to reconsider the petitioner's claim with reference to 1974 policy and his eligibility has to be taken on the date of application of 1977. It is averred that respondent No.3 vide order dated 14.09.2016 (Annexure P5) again rejected the claim of the petitioner on the ground that after the death of the father of the petitioner, he was given the benefit of Rs.5,65,310/- and as he is not entitled for compassionate appointment.

(3). Learned counsel for the petitioner argued that immediately after the death of the petitioner's father on 07.09.1997, he immediately applied for compassionate appointment in the respondent-Department vide application dated 20.11.1997 i.e. during the currency of the existant policy dated 01.05.1974 and his claim was rejected after a lapse of 3 years on 12.03.2001 on a very whimsical ground that the earlier policy has been superseded by the policy dated 12.11.1998. Reliance has been placed on a Full Bench decision of this Court rendered in **Krishna Kumari v. State of Haryana & Others, Full Bench, 2012 (2) SCT 736.**

(4). He contends that petitioner's claim has been discriminated against many other persons like Raj Kumari, Thakur Davinder Singh and Sudha Devi who were given compassionate appointments in view of the old policy dated 01.05.1974. It is exhorted that this ground was very much part of the suit proceedings wherein the respondents were directed to produce the record relating to above said appointees, however, the said order was never complied and no such record was placed before the Court, intentionally and deliberately.

(5). Written statement dated 18.10.2017 has been filed by the respondents wherein it has been averred that in compliance with the appellate order dated 06.08.2004 passed by the Addl. District Judge, Bathinda, the respondents considered the application of the petitioner taking the date when suit was filed by the petitioner i.e. 13.12.2001 and under the policy dated 01.05.1974 and the same was rejected vide order dated 14.09.2004 (Annexure R1). It is submitted that even as per in compliance with this order dated 05.08.2016 passed in RSA-3825-2004, the petitioner's case was considered in reference to 1974 policy and it was found that his claim was not meeting out the conditions laid down in the policy dated 01.05.1974 vide order dated 14.09.2016.

(6). Learned counsel for the respondent pointed out that the expenses for medical treatment of father of the petitioner were reimbursed as he was suffering from throat cancer and he died while on leave after prolonged illness and as such, the death of petitioner's father cannot be termed as a sudden death. It is further submitted that the deceased had been in receipt of monthly emoluments of Rs.9666/- and had he not died, he would have earned Rs.2,03,000/- whereas the petitioner has already received Rs.2.50 lakhs from various Social Security scheme which he would not have otherwise got on normal retirement. That apart, a sum of Rs.5,65,310/- has been disbursed towards Gratuity, Provident Fund and Incentives to the deceased's family besides the waiver of Rs.21,626.14 against House Building Advance of Rs.84,000/- taken in the year 1985.

(7). It is averred that the widow-mother of the petitioner must have been receiving pension and his daughters are already married and well settled

in their families and the petitioner and his mother have no liability even in respect of marriages of daughters of the family. It is vehemently argued that the petitioner's case for compassionate appointment does not meet out mandatory ingredients of the said policy as the death of the deceased employee cannot be said to be sudden and adequate amount was paid to the family for maintaining the standard of life easily.

(8). On the question whether the policy existing on the date of consideration of the claim for compassionate appointment is to be taken into account or the policy relevant at the time of death of the employee, reliance has been placed on **State Bank of India & Anr. vs. Raj Kumar, (2010) 11 SCC 661** to contend that no direction could be made for compassionate appointment under the non-existing scheme.

(9). Heard learned counsel for the parties and gone through the record.

(10). The petitioner's father, an employee of the respondent organisation, died in harness when an earlier compassionate appointment policy dated 01.05.1974 was in force, under which the petitioner promptly applied for appointment vide application dated 20.11.1997. The respondents, after prolonged delay, rejected the petitioner's claim by invoking a policy framed subsequent to the death of the deceased employee in terms whereof, the policy of 1974 was dispensed with. The petitioner filed a civil suit which was decreed in his favour and thereafter partially modified in first appeal, however, in regular second appeal before this Court, the suit decree was upheld holding as under:-

"In this backdrop, the appellant filed a suit on 16.07.2003. The suit was allowed in favour of the appellant. The same was reversed by the

Appellate Court stating that compassionate appointment is not a right and with reference to the factual aspects relating to the appellant's father, he had two daughters and they were married. However, as per 1974 Policy, wherein certain conditions are imposed for the purpose of compassionate appointment has not been taken into consideration. What has been taken into consideration is only a harness in the family. Harness in the family is conclusive and is not supported by any reasons, therefore, Appellate Court order is liable to be rejected.

The appellant is entitled for cost of the litigation for the reasons that appellant's father died in the year 1997. He submitted an application in the year 1997. The appellant's claim was rejected in the year 2001. The respondents have taken four years time to consider appellant's claim for compassionate appointment and upon such consideration is with reference to new policy which is not at all applicable to the appellant. This Court in full bench it was held that policy of compassionate ground appointment would be with reference to the date of death of the deceased employee.

In view of these facts and circumstances, the respondents are liable to pay costs of Rs.25,000/- to the appellant within three months. The respondents are directed to reconsider the appellant's claim with reference to 1974 Policy and eligibility is to be taken as on the date of application (1997) within a period of six weeks from today.”

(11). The respondents thus were specifically directed to reconsider the petitioner's case under the old policy of 1977 and by reckoning eligibility as on the date of his original application. In spite of these binding decrees, the respondents have again rejected the claim on new grounds including alleged payment of lump-sum assistance and reliance on the subsequent policy.

(12). The question that arises for consideration before this Court is whether, in view of the civil court decree as affirmed/modified by this Court in Regular Second appeal directing reconsideration of the petitioner's claim under the 1974 policy with eligibility to be reckoned as on the date of the application in 1977, the respondents are legally precluded from again denying compassionate appointment by relying on the subsequent policy and the plea of

lump-sum financial assistance, which stood raised and negated in the earlier round of litigation?

(13). A perusal of the trial court judgment dated 16.07.2003 that the plea so taken by the respondents viz. (i) the death of the petitioner's father was not sudden as he died on leave after undergoing prolonged illness due to suffering from throat cancer; (ii) the family is in receipt of pension and gratuity, besides Rs.2.50 lakhs drawn from other social security benefits; (iii) three daughters of the deceased are married and well settled, and as such there remained no financial hardship etc. have already been dealt with by the trial court and rejected by observing as under:-

“15. From oral and documentary evidence, I arrive at the conclusion that the defendants were not legally entitled to withdraw the existing benefits through the subsequent change in the policy. The application of the plaintiff for compassionate appointment Ex. D1 and Ex. D2 were illegally declined by the defendants through letters dated 12.03.2001 Ex.D3 and 8.4.2001 Ex. D4 on the basis of subsequent change in the policy. The case of the plaintiff is liable to be governed under the old policy/rules contained in inter office memo dated 1.5.1974 Ex. D5. The contention of the learned counsel for the defendants that amount of service benefits Rs.5,40,000/- approximately was received by the plaintiff/his mother and the period of service of Harpal Singh left was only one year and nine months, are not relevant for the disposal of this suit as these reasons were not mentioned in the letter Ex.D and Ex.D3 whereby the applications of the plaintiff were declined by the defendants. The defendants are entitled to take all the relevant factors into consideration while deciding the application of the plaintiff afresh. The plaintiff is accordingly entitled to be considered for suitable post on compassionate grounds on account

of death of his father Harpal Singh. Both these issues are decided in favour of the plaintiff and against the defendants.”

(14). The respondents framed a policy dated 01.05.1974 relating to the preference/reservation in the matter of employment to the sons/daughters of the employees/ex-employees of the Corporation including those who died in harness. The relevant provisions of the Policy thus read as under:-

“3. It has, however, been decided on the analogy of the similar provisions in the Govt. and other public undertakings that a son or a daughter or a near relative of the Corpn. Employee who dies in harness leaving his family in indigent circumstances can be considered for appointment to a post in Class III/Class IV category depending upon his/her suitability in terms of the job specifications. Similarly, the son/daughter/near relative of an employee who retires from service on medical grounds shall be considered for appointment to Class III or Class IV posts depending upon the suitability of the candidate as per job specifications. They would be considered without their names being sponsored by the Employment Exchange. The appointment shall be made in really deserving` cases where the family of an employee stands in immediate need of assistance on account of employee's sudden death or retirement medical grounds, there being no other earning member in the family.

4. The question whether the above benefit be granted in such cases also where there is already an earning member in the family, has also been considered and it has been decided that the above benefit can be given provided the Head of the Unit/Division is satisfied that the income of the earning member of the family is too inadequate to support the family at the barest subsistence level, having regard to the number of dependents of the ex-employee, the assets and liabilities left by him left by him and the income of the earning member as also his liabilities.”

(15). The Full Bench of this Court in **Krishna Kumari v. State of Haryana (2012) 2 SCT 736 (P&H)** held that for compassionate appointment, the policy applicable is the one in force on the date of death of the employee, and not the policy at delayed consideration time. The relevant portion the said judgment read as under:-

“In view of above judgment of the apex court and principles laid down therein, it is clear that the employer is within its power to lay down a policy for compassionate employment. It has to strictly adhere to the such policy. Though compassionate employment is in an exception to the general rule, power of the government or public authority to frame policy to offer compassionate employment has been accepted by the courts in the interest of justice and to meet sudden crisis which befalls the family when an employee dies in harness or is incapacitated. The question whether the policy in operation at the time of death of the employee would be applicable or that at the time of consideration of application would operate, arises for consideration. In [Raj Kumar's](#) case (supra) decided by the apex court it was held that there being no vested right for compassionate employment scheme in force at the time application is actually considered would apply, not the scheme in force earlier to said date. Subsequent policy would impliedly abolish the earlier policy. In this case, scheme which was in operation at the time of consideration of the application specifically provided that all pending applications would be considered under the new scheme. In a later judgment in [Bhawani Prasad Sonkar's](#) case (supra) the apex court took the view that the scheme in operation at the time of incapacitation of the employee would be applicable and not the scheme framed subsequently. In our considered view date of death of an employee is an important factor to be taken into consideration as schemes for compassionate appointment are floated with a view to provide

immediate relief to families of deceased employees to meet the financial crisis they face on death of sole bread winner. Travails of the family begin immediately thereafter. In that context, date of death assumes significance. Purpose of providing compassionate appointment is to mitigate the hardship at that time. Thus policy applicable on the date of death needs to be invoked to provide immediate relief. Application seeking compassionate appointment should be moved promptly thereafter by his dependent and considered by the employer without undue delay. In case an application is considered by the authority after lapse of time, objective of scheme is defeated. Such schemes which are in the nature of social welfare measure and have been recognized as an exception to the general rule for offering public employment would necessarily be applicable strictly in the parameters laid down therein and accepted by the apex court in its various decisions. Particular reference may be made here to [Umesh Kumar Nagpal v. State of Haryana & Ors](#), (1994) 4 SCC 138, wherein it was held that whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was accepted as it bore a rationale nexus to the object sought to be achieved viz. relief against destitution.”

(16). The trial court carefully examined the pleas as raised by the respondent and rejected it outrightly observing that the original rejection letters dated 12.03.2001 (Ex.D3) and 08.04.2001 (Ex.D4) had relied only on the subsequent change in policy and made no mention of financial or family circumstances subsequent to the death of the deceased employee and came to the conclusion that the petitioner's claim is liable to be governed under the old policy/rules contained in inter office memo dated 01.05.1974 (Ex.D5).

(17). Even in the regular second appeal this Court specifically crystallised two binding parameters, namely, (i) the 1974 policy alone would govern the claim, and (ii) eligibility must be reckoned strictly as on the date of the petitioner's original application in 1977. It can be seen that the respondents' role post judgment passed by this Court in RSA, was confined to verifying whether, as on the 1977 application date, the petitioner satisfied the criteria of being in "indigent circumstances" with "immediate need of assistance" on account of the employee's death in harness and absence of other earning member or inadequate income for barest subsistence, under the 1974 policy.

(18). Indisputably, the judicial determinations, referred to above, have long attained finality between the parties, creating a watertight framework within which the respondents were duty-bound to act. Instead, their so-called "compliance" orders dated 14.09.2004 (Annexure R1) and 14.09.2016 (Annexure P5) shamelessly recycled the very same pleas already negated by the trial court, while committing the additional fatal error of assessing family income and circumstances from 1998-1999 over 20 years after the 1977 cut-off date. This was not reconsideration rather it was defiance dressed as obedience.

(19). The respondents have failed to point out any specific factual infirmity against the petitioner as on the date of application of 1977 under the 1974 policy. Their rejection orders dated 14.09.2004 and 14.09.2016 contain no reference to petitioner's lack of suitability for Class III/IV post. There is no finding of adequate family income/earning member as on 1977 meeting "barest subsistence" test besides there is no assessment of dependents/assets/liabilities as per policy mandate. The respondents have even failed to record satisfaction by Head of Unit as statutorily required.

(20). Instead, they recycled pleas like cancer treatment, Rs.2.50 lakhs social security, pensions, daughters' settlement which have already been rejected by trial court vide judgment dated 16.07.2003 as irrelevant. Beside that the petitioner was forced and compelled in multiple rounds of litigation. Absolute silence on 1977 facts, coupled with failure to disprove indigence despite judicially mandated verification, leads to an inevitable inference that petitioner satisfied requisite criteria, warranting compassionate appointment as decreed.

(21). The respondents are directed to comply with the order dated 05.08.2016 passed by this Court in RSA No.3825 of 2004 and shall forthwith reconsider and grant compassionate appointment to the petitioner under the 01.05.1974 policy, within one week from today, failing which the petitioner shall be deemed appointed with all consequential benefits from the date of this judgment.

(22). Needless to say that all necessary service benefits including salaries, increments, promotion etc. shall be granted to the petitioner from the date he became entitled to along with all consequential benefits to which he would be entitled to along with interest @ 6% p.a. from the date it became due till the date of its realization.

(23). In the aforesaid terms, the petition stands allowed.

04.12.2025

V.Vishal

(Sandeep Moudgil)
Judge

1. *Whether speaking/reasoned?* :
2. *Whether reportable?* :

Yes/No
Yes/No