



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

229

**CWP-26255-2019 (O&M)
Date of decision: 20.03.2025**

SUMANPREET KAUR

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Ms. Garima Kuthiala Prashar, Advocate for
Mr. Chander Mohan Sharma, Advocate
for respondent-Union of India.

VINOD S. BHARDWAJ, J. (Oral)

CM-3917-CWP-2020

For the reasons mentioned in the application, the same is
allowed and Annexures R-1 to R-9 are taken on record.

CM-3921-CWP-2020

Application is allowed as prayed for and reply filed on behalf of
respondent is taken on record.

CWP-26255-2019

Prayer in the present writ petition is to direct the respondents to

consider the candidature of the petitioner for a suitable post, keeping in view her qualification, on compassionate ground on account of death of her father Swaran Singh and to quash the speaking order dated 18.04.2019.

2. Learned Counsel appearing on behalf of the petitioner contends that late Swaran Singh-father of the petitioner was employed with the respondents-CISF as Constable bearing No. 884528830 and was serving in 8th Reserve Battalion of CISF and was posted at Kishtwar (J&K). He expired on 29.09.2001 while posted in J &K leaving behind the petitioner and her mother. The mother of the petitioner submitted an application for seeking appointment on compassionate grounds. Vide Letter dated 06.02.2002, it was informed to her mother that application submitted for compassionate appointment which was sent to the Head Quarters and it was returned due to some shortage of documents and further asked her to submit all the required documents.

3. Counsel contends that the mother of the petitioner thereafter submitted the requisite documents and had also been writing request letters and making personal visits to the respondents to enquire about the status for her appointment on compassionate ground but her case was delayed without any rhyme or reasons. The mother of the petitioner was later directed to appear on certain occasions for an interview but she was not intimated about offering her an appointment. The claim of the mother of the petitioner was eventually rejected by the respondents vide letter dated 10.07.2012 on the ground that as per instructions she could be appointed on compassionate ground within three years of application and since that period had already elapsed so her case could not be considered. Accordingly, legal notice dated 22.08.2012 was sent by the mother of the petitioner to the respondents to

reconsider her case. A reply was sent on 15.11.2012 pointing out that she was eligible only for three chances for seeking a compassionate appointment which she had already availed. The mother of the petitioner thereafter approached this Court vide CWP-2248-2013. During the pendency of the said writ petition, the present petitioner had attained the age of majority and the said writ petition was disposed of vide order dated 07.02.2019 with the directions to respondents No. 3 to pass a speaking order on the representation made by the petitioner. The same was accordingly submitted by the mother of the petitioner on 02.03.2019. Vide order dated 18.04.2019, the respondents rejected the claim on the ground that the mother of the petitioner had already availed five chances and as such, the claim of the petitioner cannot be considered.

4. Learned Counsel appearing on behalf of the petitioner contends that the respondents had considered only the claim of her mother for appointment on compassionate basis and have never afforded any opportunity to the petitioner to seek compassionate appointment as her candidature and suitability has never been assessed.

5. Reply on behalf of the respondents have been filed wherein the following preliminary submission have been raised.

“1. That late Constable/GD Sarwan Singh of CISF 7th R B Kishtwar was appointed in CISF on 23.11.1988 vide CISF RTC Paradip Service order Part-I No.63/1988 dated 24.12.1988. While posting at CISF 8th Reserve Battalion Kishtwar (J&K), he was diagnosed as HIV positive by the Medical Officer of DHEP Hospital, Kishwar. He was advised for Medical Home Rest from 05.08.2001 to 03.10.2001 during which he expired on 29.09.2001 at his native place i.e. village: Manuchal Kalan, Post: Manuchal Kalan, Distt: Amritsar (Punjab).

*His wife namely Smt. Manpreet Kaur submitted an application dated 12.11.2001 for appointment on compassionate ground in CISF. The Competent Authority considered her request and accordingly she was called upon for recruitment process on 12.08.2003 (**Annexure R-1**), wherein she could not be selected due to non-availability of vacancy in the rank of Tailor in CISF. She also appeared for recruitment process on in the rank of Constable GD on 24.03.2007 but being under height she could not be selected. (**Annexure R-2**). Smt. Manpreet Kaur, mother of the petitioner again appeared on 16.05.2008 for recruitment process in the rank of Water Carrier, but she was declared failed in one mile race vide rejection slip dated 16.05.2008 (**Annexure R-3**). Again she was called for recruitment process on 21.12.2008 in the rank of Cook vide CISF Group Headquarters New Delhi letter No.(1412) dated 10.12.2008 (**Annexure R-4**) and also in the rank of Const/Tradesman on 26.08.2010 vide CISF Group Headquarters New Delhi letter No.(2879) dated 09.08.2010 (**Annexure R-5**), but on both occasions, she did not attend the recruitment process and remained absent. Smt. Manpreet Kaur was given ample opportunities which she had availed for recruitment in CISF on compassionate ground, but she could not be got selected. Thus, as per the guidelines issued by DOPT OM No.14014/19/2002-Estt(D) dated 05.05.2003, the case for compassionate appointment of Smt. Manpreet Kaur was closed. Smt. Manpreet Kaur again submitted an application dated 26.06.2012 for Compassionate Appointment in CISF. Her request was considered and **REJECTED** vide IG/CISF North Sector HQrs. New Delhi letter No.(5644) dated 10.07.2012. Being aggrieved with the decision of IG/North Sector, Smt. Manpreet Kaur filed a Writ Petition No.2248/2013 in the Hon'ble Punjab and Haryana High Court at Chandigarh for*

compassionate appointment in CISF. During hearing held on 21.03.2018, the Hon'ble Court passed an Interim Order which is as under:-

"The application is allowed as prayed for, Additional affidavit along with Annexures R-10 and R-11 are taken on record subject to all just exceptions. Exemption as prayed for is granted subject to all just exceptions.

Perusal of the affidavit as well as the documents filed vide C.M. No.4327 of 2018, it is evident that the petitioner is not eligible to hold the post of HC/Clerk in view of minimum qualification of 12 pass. However, petitioner could be accommodated to the post of followers pursuant to Annexure R-10. Physical efficiency test for the post of Followers in case of widow having regard to the age and education could be relaxed in view of the policy. Therefore, competent authority is hereby directed to consider the petitioner's name for the post of Followers while relaxing qualification including physical Efficiency Test. In this regard necessary action be taken and place it on record on the next date of hearing. List this matter on 18.05.2018".

*2. That, in compliance to the said Interim Order dated 21.03.2018, Smt. Manpreet Kaur was again called for recruitment process in the rank of Constable/Tradesman (Cook) on compassionate ground in CISF at CISF Group HQrs New Delhi on 01.05.2018. During the recruitment process, her medical examination was held on 03.05.2018 wherein she was found medically unfit due to Defective Distant Vision, 6/9 (P), 6/12 (P) and Defective Near Vision N/24, N/24. A copy of Medical Examination Report is annexed herewith as **Annexure R-6**. Her Review Medical Examination was held at BSF HQr. Hospital-1, East Block, R. K. Puram, Sector-01, New Delhi on 29.05.2018 to 30.05.2018, in which she was*

*found unfit due to Defective Distant Vision, 6/9 (P), 6/12 (P) and Defective Near Vision N/24, N/24. A copy of result of Review Medical Board is annexed herewith as **Annexure R-7**. The Medical Examination Report and Review Medical Examination Report of Smt. Manpreet Kaur was filed before the Hon'ble Punjab and Haryana High Court. The matter was again heard on 07.02.2019 and Hon'ble Court passed the following Judgment Order:*

"The present writ petition is, therefore, disposed of with a direction to respondent No.3 The Assistant Commandant, (North Zone), CISF, North Zone Headquarters, Saket, New Delhi to pass a speaking order on the representation of the daughter of the petitioner, which the learned counsel for the petitioner states, that petitioner's daughter would be filing within a period of four weeks. Let the needful be done within a period of two months from the date of its filing as stated by learned counsel for the petitioner. The above order is being passed without prejudice to the right of the petitioner."

Writ petition is, accordingly, disposed of.

*3. That, the petitioner Smt. Sumanpreet Kaur submitted a representation dated 02.03.2019 for appointment on compassionate ground in the rank of Constable/GD or any other post deemed suitable in CISF. Since, Smt. Manpreet Kaur had already availed five (05) chances, the case of the petitioner was not considered for appointment on compassionate ground in CISF in accordance with CISF HQrs. Circular No.05/2008 dated 14.03.2008 (**Annexure R-8**). Representation dated 02.03.2019 submitted by the petitioner was disposed of by Assistant Commandant/Adm., CISF North Zone HQrs, New Delhi vide Order No.E-32015/Comp. App/ Rectt./ CC/NZ-I/2019-2911 dated 18.04.2019 in compliance of the*

*Judgment Order dated 07.02.2019 of Hon'ble High Court of Punjab & Haryana in CWP No.2248/2013. Copy of order dated 18.04.2019 is annexed here as **Annexure R-9.***

6. Even though the said reply was filed by the respondents in January, 2020 and a period of more than 05 years has elapsed, however, no replication controverting any of the averments contained in the said reply has been filed. There is no reference to any statutory provision by the petitioner that even though all the chances for compassionate appointment had been extended to her mother, who had then opted to join the proceedings, yet, despite expiry of all the chances, the next in the kin/child could also separately claim for compassionate appointment.

7. Counsel for the petitioner has failed to refer to any statutory provision or instructions issued by the competent authority of the respondents on the basis whereof the stand taken by the respondents may be said to be not in league with the applicable statutory rules.

8. In the absence of any statutory provision to the contrary, if the scheme provides for a maximum number of opportunities to be provided for seeking compassionate appointment, it has to be construed as the total number of opportunities to all members who claim through the deceased and it is not to be read as opportunities to each member in the family. Any such interpretation would make the process endless and erode the very object of capping the total number of chances.

9. Under the given circumstances, there is no reason why this matter should be kept pending any further. The present writ petition is accordingly dismissed at this stage. Liberty, is however, granted to the

petitioner to seek revival of the present petition within a period of two months from today, in case, she is able to refer to any statutory provision on the basis whereof the petitioner can establish that she would have a subsisting right to seek an appointment on compassionate basis notwithstanding her mother having availed the maximum permissible chances for seeking recruitment on compassionate grounds.

(VINOD S. BHARDWAJ)

JUDGE

MARCH 20, 2025

Vishal Sharma

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