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

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Date of decision: 13.01.2025

SURENDER KUMAR

....PETITIONER

Vs.

HARYANA VIDYUT PARASARAN NIGAM LTD. AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ashok K. Sharma (Bhana), Advocate and
Ms. Suman Sharma, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant writ petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 16.07.2024 (Annexure P-11) whereby his claim for compassionate appointment has been declined.

2. Petitioner's father was working with respondent-Haryana Vidyut Parasaran Nigam Limited as 'work mate'. He passed away in harness on 03.09.1996. As per applicable policy, petitioner's mother was paid a sum of Rs.70,000/- towards *ex-gratia* compassionate amount. The petitioner, at that point of time was 5 years old, thus, there was no opportunity to apply for job. As per applicable policy, he was required to submit application within 6 months from attaining the age of 17 years. He attained age of 17 years in 2008 but did not apply for the job. He even did not apply after attaining age of majority. As per record, he served legal notice on 27.01.2020 (Annexure P-7) seeking

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appointment as per policy of 2019. He made a representation within 6 months from the date of introduction of 2019 policy which came into force w.e.f. 02.08.2019 (Annexure P-12).

3. Mr. Ashok K. Sharma (Bhana), Advocate submits that petitioner's mother was paid a paltry sum of Rs. 70,000/- at the time of death of her husband. The petitioner was 5 years old, thus, there was no question to get employment. As per policy of 2019, every person who has not been granted benefit as per policy of 2006 was entitled to move application within 6 months from the date of introduction of said policy. The petitioner within 6 months from the date of introduction of 2019 policy applied for the post, thus, respondent was bound to consider his claim. The respondent has considered claim of similarly situated claimants but petitioner has wrongly been isolated. The act of respondent amounts to violation of Article 14 of the Constitution of India.

4. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

5. Concededly, father of petitioner passed away on 03.09.1996. Petitioner's mother at the time of death of his father was paid *ex-gratia* compassionate amount of Rs. 70,000/-. He attained majority in 2009 whereas he applied for compassionate appointment in 2019 after introduction of 2019 policy. As per 2019 policy, a person who has not been sanctioned compassionate financial assistance could apply within 6 months from the date of introduction of said policy. The petitioner is wrongly interpreting 2019 policy to the effect that compassionate financial assistance must have been paid under 2006 policy. The question of payment under 2006 policy could arise, had the employee passed away after 2006. The case of petitioner was governed by 1993 policy and his mother was paid compassionate financial assistance as per said policy. He was



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required to move an application within 6 months from attaining the age of 17 years. The requirement of filing application within 6 months from attaining the age of 17 years could be slightly modified but the said period cannot be stretched to 10 years. Had the petitioner applied within 6 months from attaining the age of majority instead of 17 years, this Court would have considered his case but he moved application after introduction of 2019 policy which was not applicable at all to him.

6. The object of compassionate appointment or *ex-gratia* payment is to protect family of the deceased employee from destitution, penury and starvation. The object of the appointment on compassionate ground is not to give a member of the deceased employee's family a post, much less a post for a post held by the deceased but to provide relief to the family of a deceased employee to tide over the sudden crisis brought about by his/her premature death. This relief provides the distressed family immediate succor and financial assistance to recover from the unexpected deprivation of the income of the sole bread-winner of the family.

7. The Apex Court in **Umesh Kumar Nagpal Versus State of Haryana; (1994) 4 SCC 138**, has held that appointment on compassionate ground is a concession and cannot be claimed as a matter of right especially after passage of substantial time. The relevant extracts of the said judgment read as:-

“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



applications and merit. No other mode of appointment nor any other consideration is permissible. 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 dependant 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.”

8. In the wake of above-referred judgment and considering inordinate delay on the part of petitioner, this Court does not find it appropriate to invoke its extra-ordinary writ jurisdiction. The present petition deserves to be dismissed and accordingly dismissed.

13.01.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

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