

CWP-14343-2026

2026:PHHC:082978



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CWP-14343-2026

Date of decision: **25.05.2026**

Navdeep Singh

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Ankit Midha, Advocate
for the petitioner.

Ms. Pratibha Bali, AAG Punjab.

Ms. Monica Sharma, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the speaking order dated 28.04.2026, Annexure P-16(B) rejecting petitioner's claim for appointment as Junior Draftsman on compassionate grounds and further prayer for issuance of a writ in the nature

CWP-14343-2026

2026:PHHC:082978



of *mandamus* directing respondents to appoint the petitioner as Junior Draftsman with all consequential benefits.

2. Learned counsel for the petitioner, *inter alia*, contends that his father, namely Maghar Singh, died in harness on 29.11.2019 while serving as a Tubewell Operator under respondent No.2 and, therefore, the petitioner became entitled to consideration for compassionate appointment under the Policy and Recruitment Rules prevailing on the date of death of the employee. It is submitted that the petitioner possessed Diploma in Mechanical Engineering, which at the relevant time was recognized as equivalent to or higher than the prescribed qualification for the post of Junior Draftsman, and accordingly he applied for compassionate appointment on 28.02.2020. The petitioner asserts that his case was duly recommended by the Divisional Engineer and Superintending Engineer and was also considered favourably by the Compassionate Appointment Committee in its meeting dated 02.12.2020, wherein approval of his appointment was recommended. However, the matter was kept pending only on account of requirement of prior approval from the Department of Personnel owing to the fact that the petitioner's sister was serving in the Indian Army.

2.2. It is further contended that a similarly situated person, namely Jagroop Singh, possessing identical qualifications, was appointed as Junior

CWP-14343-2026

2026:PHHC:082978



Draftsman pursuant to the same meeting of the Committee dated 02.12.2020, but the petitioner was denied similar treatment, thereby violating Articles 14 and 16 of the Constitution of India. The petitioner submits that during the pendency of his claim, respondent No.2 amended the Recruitment Rules on 17.09.2021 and illegally applied the amended Rules retrospectively to the petitioner's pending case, rendering him ineligible. It is argued that respondent No.2 itself acknowledged vide communication dated 24.05.2022 that the petitioner fulfilled the prescribed qualifications as on the date of death of his father and, therefore, his case ought to have been considered under the unamended Rules.

2.3. The petitioner further submits that due to financial hardship and compelling circumstances, he accepted appointment to the lower post of Peon on 08.06.2022, though such appointment does not extinguish his rightful claim for appointment to the post of Junior Draftsman. It is also contended that this Court, while disposing of CWP No.2845 of 2026, directed the respondents to reconsider the petitioner's claim in the light of the judgments in *Ashish Awasthi and Krishna Kumari*; however, the respondents rejected the claim vide impugned speaking order dated 28.04.2026 by misinterpreting and misapplying the aforesaid judgments. The petitioner submits that the law laid down in the said judgments mandates consideration of compassionate appointment under the



policy/rules prevailing on the date of death of the deceased employee, under which the petitioner was admittedly eligible, and therefore the impugned order is illegal, arbitrary and liable to be quashed.

3. On 08.05.2026, the following order was passed:-

“Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the order dated 28.04.2026 (Annexure P-16B) passed by respondent No.2, declining the claim of the petitioner for appointment to the post of Junior Draftsman or any appropriate Group ‘C’ post commensurate with his qualification on compassionate ground instead of Peon. Further a writ of mandamus has been sought, directing the respondents to appoint the petitioner as Junior Draftsman with all consequential benefits from 11.01.2021 and to consider the case of the petitioner for appointment to any appropriate Group-C post commensurate with his qualifications.

*Learned counsel for the petitioner, inter alia, contends that after the death of petitioner’s father on 29.11.2019, the petitioner applied for compassionate appointment for the post of Junior Draftsman on 28.02.2020. In terms of the judgment rendered by the Hon’ble Supreme Court in **State of Madhya Pradesh and others vs Ashish Awasthi, (2022) 2 SCC 157**, and the judgment passed by the Full Bench of this Court in **Krishna Kumari vs State of Haryana, 2012 (2) SCT 736**, the case of the petitioner was required to be examined in the light of Policy invoked at the time of death of his father. Learned counsel for the petitioner further submits that the similarly situated co-applicant namely Jagroop Singh with identical qualifications was appointed as Junior Draftsman on 11.01.2021 by the same committee. Respondent No.2 amended the recruitment rules on*

2026:PHHC:082978



*17.09.2021, which cannot be applied to the petitioner's pending case. Respondent No.2 itself acknowledged on 24.05.2022 that at the time of death of petitioner's father, the petitioner fulfilled the prescribed qualifications and the petitioner accepted the appointment as Peon due to financial constraints. The earlier writ petition i.e. CWP-2845-2026 filed by the petitioner was disposed of on 02.02.2026 with a direction to decide his claim in the light of **Ashish Awasthi's case (supra)** and **Krishna Kumari's case**, however, the respondents rejected his claim vide impugned speaking order dated 28.04.2026, by misapplying the ratio of law laid down in aforesaid judgments.*

*Learned counsel for respondent No.2, seeks a short accommodation to have complete instructions and file appropriate affidavit in the matter and inform this Court as to why a different yardstick has been applied in the case of Jagroop Singh with identical qualification, who was appointed as Junior Draftsman whereas the petitioner has been appointed as Peon and why the case of the petitioner was not considered in the light of ratio of law laid down in **Ashish Awasthi's case (supra)** and **Krishna Kumari's case**.*

Adjourned to 25.05.2026."

3.1. In compliance thereof, a reply by way of an affidavit of Mr. Karanvir Singh Bains, Divisional Engineer, Establishment, Punjab Water Resources Management and Development Corporation, Mohali, on behalf of respondent No.2, has been filed today, which is taken on record. The Registry is directed to tag the same at the appropriate place. A copy thereof has been supplied to the counsel opposite.

CWP-14343-2026

2026:PHHC:082978



3.2. Learned counsel for respondent No.2 refers to paragraph No.12 of the said reply and submits that Mr. Jagroop Singh was appointed to the post of Junior Draftsman on 11.01.2021. However, it is specifically submitted that the case of Mr. Jagroop Singh was neither identical nor similarly situated to that of the present petitioner. He submits that the similarity between the two cases was confined only to the educational qualifications possessed by them. The other material aspects, including the financial condition of the families, existence of earning members, dependency status of the family members, applicability of Clause 11 of the Government Policy dated 21.11.2002, requirement of prior approval from the Government/Department of Personnel, overall family circumstances and level of financial distress, were entirely different in both the cases.

4. Learned counsel for the petitioner, in rebuttal, refers to page No.60 of the paper-book and submits that the said Clause applies only to cases where there exists an earning member in the family. He further submits that the petitioner's sister is married and is neither supporting the petitioner nor his mother. As such, Clause 11 of the policy, Annexure P-7, is not applicable to the case of the petitioner. It is further contended that the case of the petitioner is squarely covered by the judgments rendered by the Hon'ble Supreme Court in *The Secretary to Govt. Department of Education (Primary) and others vs. Bheemesh alias Bheemappa, Civil*

CWP-14343-2026

2026:PHHC:082978



Appeal No.7752 of 2021, and State of Madhya Pradesh and others vs. Ashish Awasthi, (2022) 2 SCC 157.

5. Having heard the submissions advanced by learned counsel for the parties and upon perusal of the record with their able assistance, it transpires that the father of the petitioner was serving as a Tubewell Operator with respondent No.2 and died in harness on 29.11.2019, leaving the family in financial distress. The petitioner applied for the post of Junior Draftsman on 28.02.2020 vide Annexure P-1. As per the Punjab Water Resources Management and Development Corporation Service Bye-laws, the qualification prescribed for the post of Junior Draftsman was 10% by promotion from amongst the in-service employees of the Corporation possessing I.T.I. Diploma in Draftsmanship acquired before or after joining the Corporation and having five years' experience in the categories of Operational Staff and other Class III & IV employees, as discernible from Annexure P-2.

5.1. The petitioner, after passing Senior Secondary Examination, acquired a three-year Diploma in Mechanical Engineering, as discernible from the certificate issued by the Punjab State Board of Technical Education and Industrial Training, Annexure P-3. On the basis of the same qualification, one Mr. Danish, son of late Mr. Niraj Kumar, was appointed as Junior Draftsman in the year 2014, Annexure P-4. Thereafter, the Board of



Directors of the respondent-Corporation, in its 49th meeting held on 17.09.2021, vide Annexure P-9, amended the qualification prescribed for the post of Junior Draftsman, which is as under:-

Sr. No.	Name of Post	Conditions for Direct Recruitment
1.	Junior Draftsman	“90% by direct recruitment of two year I.T.I. certificate course in Draftsmanship (Civil) from Govt. approved/recognized institute with one year apprenticeship or Higher education in the same discipline i.e. diploma/degree in Civil Engineering from the recognized University or Institution.

5.2. A perusal of the amendment clearly indicates that the same is applicable prospectively and cannot be applied to the case of the petitioner, who had sought compassionate appointment on 28.02.2020. The case of the petitioner is squarely covered by the judgment rendered by the Hon’ble Supreme Court in *Ashish Awasthi (supra)* and by the judgment of the Full Bench of this Court in *Krishna Kumari (supra)*.

5.3. Moreover, the Hon’ble Supreme Court in *Bheemesh alias Bheemappa (supra)* has observed as under:-

“.....18. If compassionate appointment is one of the conditions of service and is made automatic upon the death of an employee in harness without any kind of scrutiny whatsoever; the same would be treated as a vested right in law. But it is not so. Appointment on compassionate grounds is not automatic, but subject to strict scrutiny of various parameters



including the financial position of the family, the economic dependence of the family upon the deceased employee and the avocation of the other members of the family. Therefore, no one can claim to have a vested right for appointment on compassionate grounds. This is why some of the decisions which we have tabulated above appear to have interpreted the applicability of revised Schemes differently, leading to conflict of opinion. Though there is a conflict as to whether the Scheme in force on the date of death of the employee would apply or the Scheme in force on the date of consideration of the application of appointment on compassionate grounds would apply, there is certainly no conflict about the underlying concern reflected in the above decisions. Wherever the modified Schemes diluted the existing benefits, this Court applied those benefits, but wherever the modified Scheme granted larger benefits, the old Scheme was made applicable.

*19. The important aspect about the conflict of opinion is that it revolves around two dates, namely, (i) date of death of the employee; and (ii) date of consideration of the application of the dependant. Out of these two dates, only one, namely, the date of death alone is a fixed factor that does not change. The next date namely the date of consideration of the claim, is something that depends upon many variables such as the date of filing of application, the date of attaining of majority of the claimant and the date on which the file is put up to the competent authority. **There is no principle of statutory interpretation which permits a decision on the applicability of a rule, to be based upon an indeterminate or variable factor.***



*Let us take for instance a hypothetical case where 2 Government servants die in harness on January 01, 2020. Let us assume that the dependants of these 2 deceased Government servants make applications for appointment on 2 different dates say 29.05.2020 and 02.06.2020 and a modified Scheme comes into force on June 01, 2020. If the date of consideration of the claim is taken to be the criteria for determining whether the modified Scheme applies or not, it will lead to two different results, one in respect of the person who made the application before June 1, 2020 and another in respect of the person who applied after June 01, 2020. In other words, if two employees die on the same date and the dependants of those employees apply on two different dates, one before the modified Scheme comes into force and another thereafter, they will come in for differential treatment if the date of application and the date of consideration of the same are taken to be the deciding factor. **A rule of interpretation which produces different results, depending upon what the individuals do or do not do, is inconceivable.** This is why, the managements of a few banks, in the cases tabulated above, have introduced a rule in the modified scheme itself, which provides for all pending applications to be decided under the new/modified scheme. Therefore, we are of the considered view that the interpretation as to the applicability of a modified Scheme should depend only upon a determinate and fixed criteria such as the date of death and not an indeterminate and variable factor.*

20. Coming to the case on hand, the employee died on 8.12.2010 and the amendment to the Rules was proposed by



*way of a draft notification on 20.06.2012. The final notification was issued on 11.07.2012. Merely because the application for appointment was taken up for consideration after the issue of the amendment, the respondent could not have sought the benefit of the amendment. The Judgment of the Division Bench of the Karnataka High Court in **Akkamahadevamma** on which the Tribunal as well as the High Court placed reliance, was not applicable to the case of compassionate appointments, as the amendment in **Akkamahadevamma** came as a result of the existing rule being declared to be ultra vires Articles 14 and 16 of the Constitution....”*

5.4. Further, respondent No.2, vide letter dated 24.05.2022, Annexure P-13, informed respondent No.1 that at the time of death of the petitioner’s father, the qualification prescribed for appointment to the post of Junior Draftsman was as under:-

“ITI Diploma in Draftsmanship with one year apprenticeship.”

6. The averments made by the petitioner in the writ petition regarding his eligibility for the post of Junior Draftsman were not controverted in the reply filed by respondent No.2. The only ground on which the appointment of the petitioner as Peon has been justified is by relying upon Clause 11 of the policy, Annexure P-7, on the premise that the sister of the petitioner was employed in the Indian Army and was an earning member of the family. Accordingly, the petitioner was appointed as Peon.

CWP-14343-2026

2026:PHHC:082978



However, the petitioner submits that his sister is married and is not supporting the family. As such, Clause 11 could not have been made applicable to the case of the petitioner. Further, there is no denial to the fact that the petitioner possessed the essential qualification for the post of Junior Draftsman prior to the amendment carried out on 17.09.2021 vide Annexure P-9.

7. The petitioner had applied for the post of Junior Draftsman vide application dated 28.02.2020 and, therefore, the case of the petitioner is required to be considered under the unamended Service Bye-laws as they existed on the date of death of the petitioner's father, i.e. 29.11.2019. Consequently, the present petition is disposed of in terms of the judgments rendered in *Ashish Awasthi (supra)*, *Krishna Kumari (supra)* and *Bheemesh alias Bheemappa (supra)*. The impugned order dated 28.04.2026, Annexure P-16B, is hereby set aside and respondent No.2 is directed to consider the claim of the petitioner for the post of Junior Draftsman in the light of the judgment rendered by the Hon'ble Supreme Court in *Bheemesh alias Bheemappa (supra)*, within a period of eight weeks from the date of receipt of a certified copy of this order. The decision so taken shall also be conveyed to the petitioner.

CWP-14343-2026

2026:PHHC:082978



8. The petitioner shall also be entitled to notional benefits in case his claim is considered favourably. However, actual financial benefits shall be payable to the petitioner only from the date of his appointment.

9. Pending miscellaneous application(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

25.05.2026*parul verma*

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