

CWP-25356 of 2021

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

CWP-25356 of 2021

Date of decision: 19.01.2026

Jashandeep Singh Gill

.....Petitioner

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Gaurav Sharma, Advocate,
for the petitioner.

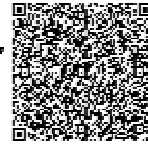
Mr. Swapan Shorey, DAG, Punjab.

NAMIT KUMAR, J.

1. Instant writ petition has been filed under Articles 226 and 227 of the Constitution of India for quashing of the speaking order dated 18.11.2021 (Annexure P-11) vide which claim of the petitioner for appointment on compassionate grounds on a suitable post has been rejected. Further prayer has been made for directing the respondents to appoint the petitioner in the State service on compassionate grounds on a suitable post.

2. Learned counsel for the petitioner contended that the petitioner is a member of the terrorist affected family as his grandfather was killed by the terrorists on 29.11.1988 and red card bearing No.183 had been issued by the State Government in this regard. He has further submitted that keeping in view the family circumstances, after the death

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of grandfather of the petitioner, father of the petitioner, Tejinder Singh, was offered a job of Naib Tehsildar. However, since father of the petitioner was not a graduate, therefore, he was denied issuance of appointment letter vide letter dated 08.02.1989 (Annexure P-4). He has further submitted that from the date the petitioner acquired the qualification of graduation, he started representing to the respondents for compassionate appointment on the ground of belonging to a terrorist affected family, however, when no action was taken thereon, the petitioner got served a legal notice dated 17.02.2021 (Annexure P-9) upon the respondents, but to no avail. Left with no other remedy, the petitioner approached this Court by filing CWP No.11799 of 2021 – Jashandeep Singh Gill v. The State of Punjab and others, which was disposed of by this Court, vide order dated 05.10.2021 (Annexure P-10), with a direction to the respondents to consider and decide the legal notice dated 17.02.2021 (Annexure P-9), in accordance with law, by passing a speaking order preferably, within a period of one month from the date of receipt of certified copy of the order. In compliance of the abovesaid order, the respondent authorities passed the impugned order dated 18.11.2021 (Annexure P-11), whereby the claim of the petitioner for compassionate appointment has wrongly been rejected. He has further submitted that in view of the policy/instructions issued by the State of Punjab from time to time i.e. dated 05.02.1996 (Annexure P-6); 21.11.2002 (Annexure P-7) and 12.01.2004 (Annexure P-8), the petitioner is entitled to be appointed in Government service on

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compassionate grounds as various other persons, detailed in para 13 of the petition, have been given appointment in similar circumstances.

3. *Per contra*, learned State counsel has supported the impugned order and opposed the claim of the petitioner for appointment on compassionate grounds. He has further submitted that petitioner does not fulfil the requirements of the afore-referred instructions and has failed to show that he is/was dependent on a deceased. Furthermore, grandfather of the petitioner was a member of the SGPC and was not rendering any service to the State at the relevant time. Therefore, no cause of action arises in favour of the petitioner for appointment on compassionate grounds.

4. I have heard learned counsel for the parties and perused the record.

5. Petitioner claims to be a member of the terrorist affected family and seeks appointment on compassionate grounds as his grandfather was killed by the terrorists on 29.11.1988. The father of the petitioner was offered job of Naib Tehsildar by the State Government, however, since he was not a graduate, no appointment letter was issued. The reliance of the petitioner on the policy/instructions issued by the State Government from time to time is misplaced as the Punjab Government formulated a policy for compassionate appointments, namely, "Grant of employment in the State Service on compassionate grounds – 2002" and the objective of the said policy is to grant appointment on compassionate grounds only to a dependent member of the family of a person (bread winner) killed

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or 100% physically disabled in terrorist action. Relevant provisions of the said policy are reproduced as under: -

“3. Henceforth, the objective of the scheme is limited to grant of appointment on compassionate grounds to persons who fall in the categories mentioned below:

- (1) A dependent member of the family of a person (bread winner) killed or 100% physically disabled in terrorist action or by security forces acting in aid of civil power, in the State;*
- (2) A dependent member of the family of the deceased Govt. employee, who dies in harness.*
- (3) Disabled Ex-Servicemen (fit for Civil Service).*
- (4) A dependent member of the family of the Defence Services Personnel:*
 - (i) Killed in service, while performing duties; or*
 - (ii) who are severely disabled and totally unfit for re-employment.*

Note:I Dependent Family Members means: -

- (a) Spouse; or*
- (b) Son (including adopted son); or*
- (c) Unmarried Daughter (including adopted daughter); or*
- (d) Unmarried Brother or Unmarried Sister in the case of Unmarried Government Servant,*

who was wholly dependent on the Govt. servant/member of the Armed Forces at the time of his death in harness.”

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6. Though the petitioner is the grandson of Harjinder Singh Gill, killed by the terrorists, however, he does not fall in any of the definitions given in the above instructions and has failed to establish that he was dependent of the deceased killed by the terrorists, which is the basic requirement of such appointments. Further, grandfather of the petitioner was not a Government servant, which may give any cause of action to the petitioner for claiming any post on compassionate grounds. Moreover, as per the reply filed by the State, benefit of instructions for appointment on compassionate grounds applicable at the relevant time has already been given to the family of the deceased i.e. to the father of the petitioner as he was offered the post of Naib Tehsildar but being ineligible same was not granted, vide letter dated 08.02.1989 (Annexure P-4). Therefore, petitioner has no right to claim appointment on compassionate grounds that too after a period of 33 years from the date of death of his grandfather.

7. The Hon'ble Supreme Court in ***The Chief Commissioner, Central Excise and Customs, Lucknow and others v. Prabhat Singh, 2013(2) S.C.T. 58*** has held as under: -

“13. Most importantly, the High Court did not take into consideration one of the most significant reasons depicted in the orders passed by the appellants (dated 5.1.2006 and 22.5.2008), namely, that under the OM dated 5.5.2003 appointment on compassionate ground was permissible within a period of three years from the date of death of the concerned employee in harness. Vijay Bahadur Singh, the father of Prabhat Singh had died on 2.3.1996. The candidature of Prabhat Singh, for appointment on compassionate ground, under the OM dated 5.5.2003

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could have been considered only till 1.3.1999. Thereafter, Prabhat Singh was rendered ineligible for appointment on compassionate ground. Pointedly, on aforesaid ground the Review Committee constituted by the appellants to consider the claims of dependents of employees who had died in harness, vide an order dated 21.9.2007, had excluded the names of persons including Prabhat Singh, from the list of pending cases for appointment on compassionate ground, because they could no longer be appointed on compassionate ground, since more than three years had expired after the death of the concerned bread winner in harness. Had the High Court or the Tribunals applied their mind to the aforesaid pre-condition for eligibility for appointment on compassionate ground, none of the directions issued by the High Court or the Tribunals would have been issued. Such directions could have been issued only when the party approaching the Tribunal or the High Court had established a prima facie case, by demonstrating fulfillment of the terms and conditions stipulated in rules/regulations/policy instructions/office memoranda, relevant for such consideration. Had the aforesaid simple exercise been carried out, it would not have been necessary to examine the matter again and again. In the instant case, on a simple issue of compassionate appointment, there have been repeated rounds of litigation, the first time before the CAT-Allahabad Bench, then before the CAT-Lucknow Bench, and thereafter, before the High Court. From the High Court the matter has now been carried to this Court. If only the pre-requisite eligibility of Prabhat Singh for appointment on compassionate ground had been examined, it would not have been necessary to examine the matter again, and yet again. The instant observations have been recorded only to demonstrate how judicial time

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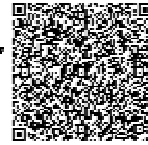


at different levels has been wasted by entertaining a frivolous litigation. Surely, because Prabhat Singh had approached a judicial forum nine years after the death of his father, whereas, appointment on compassionate ground is permissible only within three years of the death of the bread winner, the matter deserved to have been rejected at the stage of first entertainment.

14. We are constrained to record that even compassionate appointments are regulated by norms. Where such norms have been laid down, the same have to be strictly followed. Where claims for appointment on compassionate ground, exceed, the available vacancies (which can be filled up by way of compassionate appointment), a selection process has to be adopted by the competent authority. The said process, necessarily has to be fair, and based on a comparative compassion gradient of eligible candidates, or on some such like criterion having a nexus to the object sought to be achieved. In other words, where there are two candidates but only one vacancy is available, there should be a clear, transparent and objective criterion to determine which of the two should be chosen. In the absence of a prescribed criteria, a fair selection process has to be followed, so that, the exercise carried out in choosing one of the two candidates against a solitary available vacancy, can be shown to be based on reason, fair-play and non arbitrariness.

15. The very object of making provision for appointment on compassionate ground, is to provide succor to a family dependent on a Government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole bread winner. Delay in seeking such a claim, is an ante thesis, for the purpose for which compassionate appointment was conceived. Delay in

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raising such a claim, is contradictory to the object sought to be achieved. The instant controversy reveals that even though Vijay Bahadur Singh, the father of the applicant (Prabhat Singh) seeking appointment on compassionate ground had died on 2.3.1996, Prabhat Singh sought judicial redress, for the first time, by approaching the CAT-Allahabad Bench in 2005. By such time, there was no surviving right for appointment on compassionate ground under the OM dated 5.5.2003. As already noticed above, appointment on compassionate ground under the OM dated 5.5.2003 is permissible within three years of the death of the bread winner in harness. By now, sixteen years have passed by, and as such, there can be no surviving claim for compassionate appointment.

16. Courts and Tribunals should not fall prey to any sympathy syndrome, so as to issue directions for compassionate appointments, without reference to the prescribed norms. Courts are not supposed to carry Santa Claus's big bag on Christmas eve, to disburse the gift of compassionate appointment, to all those who seek a court's intervention. Courts and Tribunals must understand, that every such act of sympathy, compassion and discretion, wherein directions are issued for appointment on compassionate ground, could deprive a really needy family requiring financial support, and thereby, push into penury a truly indigent, destitute and impoverish family. Discretion is therefore ruled out. So are, misplaced sympathy and compassion."

8. Further the Hon'ble Supreme Court in ***Jagdish Prasad v.***

State of Bihar, 1996 (1) SCC 301 has held as under: -

"3.....The very object of appointment of a dependent of the deceased employee who died in harness is to relieve unexpected immediate hardship and distress caused to the

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family by sudden demise of the earning member of the family. Since the death occurred way back in 1971, in which year, the appellant was four years old, it cannot be said that he is entitled to be appointed after he attained majority long thereafter. In other words, if that contention is accepted, it amounts to another mode of recruitment of the dependent of a deceased Government servant which cannot be encouraged, de hors the recruitment rules."

9. A Division Bench of this Court in ***Bijender Singh v. State of Haryana, 1999(3) SCT 98*** has held as under: -

"20. One of the principles which is clearly discernible from the various judicial precedents referred to above, is that the minor dependent of deceased employee cannot claim appointment as of right on his/her attaining majority and unless the rules or the administrative instructions which regulate ex gratia employment/compassionate appointment provide for consideration of the claim of such dependent after he/she becomes major, the Court cannot issue a writ in the nature of mandamus directing the public employer to appoint such dependent after lapse of many years. It is also consistent view of the Courts that long time gap between the date of the death of the employee and the date of submission of application by an eligible dependent is sufficient to draw an inference that the family of the deceased was not in dire need of assistance in the form of ex-gratia employment/compassionate appointment."

10. This Court while considering similar issue in ***Tinku v. State of Haryana and others, 2021(4) SCT 18*** has held as under: -

"8. It is well settled that appointment to public office is required to be made by strictly adhering to the mandatory requirement of the Constitution. Compassionate

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*appointment is an exception to the general rule. Provision has been made in order to help the bereaving family immediately, who has lost its bread earner, to tide over the immediate crisis. Compassionate appointment is not a right but a concession. A government/public employment is not a hereditary office. Such provision has been made to provide immediate succor to the dependents of the deceased. Moreover, it is also well settled that the compassionate appointment cannot be claimed as a matter of right especially after a passage of time. Reference in this regard can be made to the judgment of the Supreme Court in **Umesh Kumar Nagpal v. State of Haryana (1994) 4 SCC 138.***

11. On the basis of case laws decided earlier, the Hon'ble Supreme Court in ***The State of West Bengal v. Debabrata Tiwari and others, 2025(5) SCC 712*** has laid down certain guidelines for compassionate appointment and observed as under: -

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

*i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. **Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.***

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector

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undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

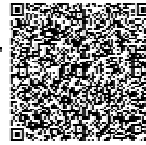
iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

7.3. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the bread-earner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependants of the deceased employee, after the crisis which arose on account of death of a bread-winner,

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has been overcome. Thus, there is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration.

7.4. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter.

7.5. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the

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deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.”

12. Further, the scheme of compassionate appointment is an exception to the general rule of recruitment and is intended to provide immediate succour to the family of a deceased employee facing sudden financial distress. The very object of the scheme presupposes that the request must be made within the time stipulated, or at the very least, the reasonable period. In the present case, the petitioner approached the authorities after an inordinate and unexplained delay of about 33 years. Such belated claims defeat the purpose of compassionate appointment and cannot be entertained. The Hon’ble Supreme Court has consistently held that the stale and delayed applications for compassionate appointment are liable to be rejected and cannot be directed to be considered as a matter of right.

13. Further, the Rajasthan High Court in ***Smt. Parwati Devi and another v. Director, (G) & Nodal Officer (PG), Ministry of Mines, Geology Survey of India and others, 2022 SCC Online Raj***

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410, relying upon the decisions of the Hon'ble Supreme Court has observed as under: -

*“14. It has also been held by the Hon'ble Supreme Court in the case of "**Punjab State Power Corporation Ltd. & Ors. v. Nirval Singh, reported in (2019) 6 SCC 774**" that delay in pursuing claim/approaching court would mitigate against claim for compassionate appointment as very objective of providing immediate amelioration to family would stand extinguished.*

16. In the case of "**State of J & K & Ors. v. Sajad Ahmed Mir reported in (2006) 5 SCC 766**", the Hon'ble Supreme Court has considered the delay and laches in case of appointment on compassionate ground. By dismissing the claim for appointment on compassionate ground, which was made after a period of four and a half years of the death of the deceased employee, it was held that the appointment on compassionate ground is an exception to the general rule. An appointment to public offices should be made on the basis of competitive merits. It was further observed that once it is proved that inspite of the death of the breadwinner, the family survived and the substantial period is over, there is no need to make appointment on compassionate ground, at the cost of interests of several others ignoring the mandate of Article 14 of the Constitution of India.

21. In the present case also, as already indicated above, the petitioners approached the Tribunal after a lapse of almost 13 years from the date of death of the employee concerned. The observations made by the Hon'ble Supreme Court in the case of P. Venkatesh (supra) are squarely applicable with the facts of the instant case. For

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the sake of convenience, the relevant observations made by the Hon'ble Apex Court in the case of P. Venkatesh (supra) are as under:

"The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondents, in these proceedings, is simply this; Compassionate appointment, it is well settled, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly 11 years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13 November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicated institutions. But,


$$x \qquad \qquad \qquad x \qquad \qquad \qquad x \qquad \qquad \qquad x$$

14. Keeping in view the aforesaid, the petitioner is not entitled for appointment on compassionate basis as the family of the deceased survived for about 33 years and the petition for compassionate appointment was filed after an inordinate delay of 33 years from the date of death of his grandfather on 29.11.1988. Furthermore, the petition is silent with respect to the details as to when the similarly situated persons were granted compassionate appointment, as averred in paragraph 13 of the petition. In the absence of specific details, Article 14 of the Constitution of India cannot be invoked to claim

parity in illegality, as equality cannot be claimed in the negative.

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Moreover, the position of law is settled that appointment on compassionate basis is not an alternate source of recruitment nor does the consideration for such employment is a vested right, which can be exercised at any time in future.

15. For the reasons stated hereinabove, the present writ petition is dismissed

19.01.2026
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No