

(2017) 01 P&H CK 0113
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 17790 of 2013

Gaurav Kumar Sharma

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 19-01-2017

Acts Referred:

Citation : (2017) 2 PLR 556

Hon'ble Judges : Mr. Ajay Tewari, J.

Bench : Single Bench

Advocate : Mr. Amit Kaith, Advocate, for the Petitioner; Ms. Shruti Jain Goyal, AAG, Haryana, for the Respondent-State

Final Decision : Allowed

Judgement

Ajay Tewari, J. (Oral)—This petition has been filed for issuance of a writ in nature of Mandamus directing the respondents to consider the case of the petitioner for appointment on compassionate grounds on account of the death of his father.

2. Brief facts of the case are that the father of the petitioner passed away when he was in Government service in 1996. At that time as per the Policy, the respondents directed his widow to apply for appropriate job under the 1995 Instructions for compassionate appointment. She reverted back by requesting them to keep the post vacant because the petitioner was minor at that time. Admittedly respondents never rejected her request and keep the post vacant. Ultimately, the petitioner became a major in 2008 and pressed for consideration of his claim which was declined in the year 2013 primarily on the ground that by then too much time had elapsed and therefore compassionate appointment could not be granted.

3. Learned counsel for the petitioner has argued that had the respondents informed his mother that the case for compassionate appointment could not be delayed she would have accepted the offer of employment. Learned Assistant

Advocate General has fairly accepted that in the year 1996 there was a practise that cases of compassionate appointment were kept pending to enable any dependent to become eligible. However she stated that in the year 2001 instruction were issued that the claim for compassionate appointment can be kept alive only for 03 years. She has further relied upon the latest decision of the Supreme Court in the matter of Union of India and Others v. Sima Banerjee passed in Civil Appeal No. 251 of 2017 decided on 10.01.2017 wherein the Supreme Court has now held that there would no question of grant of compassionate appointment after a period of many years.

4. In these circumstances, it is clear that this Court cannot grant the benefit of compassionate appointment to the petitioner. However it cannot also be denied that if the respondents had informed the mother of the petitioner at the relevant time that the case of the compassionate appointment cannot be kept pending she would have accepted the offer. In my considered opinion, interest of justice would be met if the respondents are directed to consider the claim of the petitioner under the 2006 Rules which was prevalent at the time when he attained majority. Under those Rules, the petitioner would have to give an option. Let the petitioner now apply under the 2006 Rules within period of 01 month from the date of issuing of the certified copy of this order. The respondents are directed to grant him the benefits as per the 2006 Rules within a further period of 02 months thereafter failing which the petitioner would be entitled to claim the same with interest @ 12% per annum from today.