

(2016) 07 P&H CK 0160
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 28589 of 2013

Jagdeep Singh

APPELLANT

Vs

Central Administrative Tribunal, Chandigarh

RESPONDENT

Date of Decision : 13-07-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16

Citation : (2017) 1 SCT 351

Hon'ble Judges : Ajay Kumar Mittal and Ramendra Jain, JJ.

Bench : Division Bench

Advocate : G.S. Sandhu, Advocate, for the Petitioner; P.C. Goyal, Advocate, for the Respondent Nos.2 to 4

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J. - The petitioner prays for quashing the order dated 31.7.2013, Annexure P.6 passed by respondent No.1 vide which his prayer for appointment on compassionate grounds has been dismissed. Further prayer has been made for a direction to respondent Nos. 2 to 4 to consider the petitioner for appointment on compassionate grounds in sympathetic manner.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Father of the petitioner Late Shri Karam Singh was appointed in Military Engineering Service w.e.f 01.8.1977. He expired on 6.2.1999 at the age of 44 years leaving behind his widow, one minor son and two minor daughters. The mother of the petitioner Smt.Sukhjeet Kaur submitted an application on 4.8.1999 before respondent Nos. 3 and 4 to consider her for compassionate appointment on the ground that her husband who was the only bread earner of the family had died and there was no source of income. The said request was declined after about four years vide letter dated 28.6.2003, Annexure P.1. Further requests made by the mother of the petitioner were also declined vide orders dated 7.8.2003 and 31.12.2003. Thereafter, she requested respondent Nos. 2 to 4 to consider her son for employment which was also

declined vide letter dated 13.4.2006, Annexure P.3. The petitioner on attaining the age of majority represented to Garrison Engineer AF, Bhisiana in June 2010 to consider him for public employment but did not get any reply. Thereafter, the petitioner served a legal notice which was replied vide letter dated 17.8.2012 stating that his case could not be considered at belated stage. The petitioner filed application under section 19 of the Administrative Tribunals Act, 1985 before the Central Administrative Tribunal, Chandigarh with a prayer to issue directions to respondent Nos. 2 to 4 to consider him for appointment. During the pendency of the case, the petitioner received letters dated 20.6.2013 and 24.5.2013 from the respondents requiring him to report Head Quarter Chief Engineer (AF) WAC Palam for interview on 4.6.2013 at 10.30 AM in connection with compassionate appointment. The petitioner appeared for interview but no interview was held. He was asked to hand over the copies of certificates and was told that since he had approached the Tribunal, his case could not be considered at that stage. The application filed before the Tribunal was also dismissed vide order dated 31.7.2013, Annexure P.6. Hence the instant petition by the petitioner before this Court.

3. A written statement has been filed by respondent No.4 wherein it has been inter alia stated that the case of the mother of the petitioner for compassionate appointment was considered by the competent authority four times and was ultimately closed in September 2002 by passing a speaking order dated 31.12.2003. It was stated that there was non-availability of the sufficient vacancies and case of mother of the petitioner was found very low on merits taking into consideration the criteria of eligibility and suitability for the post. As per the rules, only 5% out of the total number of direct recruit vacancies were earmarked for grant of appointment on compassionate basis. Further, the case of the petitioner was time barred. On these premises, prayer for dismissal of the petition has been made.

4. We have heard learned counsel for the parties

5. On a perusal of the averments made in the writ petition, written statement and after hearing learned counsel for the parties, we find that claim of the mother of the petitioner for compassionate appointment was rejected four times way back in the year 2003 taking into account the requisite eligibility criteria. The present claim for compassionate appointment has now been filed by the son of the deceased on attaining majority. The petition filed before the Tribunal against the order passed by the respondent authorities has been dismissed vide order dated 31.7.2013 on the ground that case of the mother of the petitioner for compassionate appointment was not recommended by the Board being not falling in the fixed criteria and also on account of lack of vacancies. Moreover, appointment on compassionate grounds cannot be claimed as a matter of right. The purpose of providing appointment on compassionate grounds is to mitigate the hardship due to death of the bread earner in the family. Normally, the rules contemplate compassionate appointment on an application by a dependent

family member subject to the applicant fulfilling the prescribed eligibility requirements and subject to availability of a vacancy for making the appointment. The applicant has only a right to be considered for appointment against a specified quota even if he fulfils all the eligibility criteria and the selection is made of the most deserving among the several competing applicants to the limited quota of posts available.

6. The Apex Court in *Steel Authority of India Limited v. Madhusudan Das and others*, (2008) 15 SCC 560 considering the issue of appointment on compassionate grounds has observed as under :-

"This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor viz. that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidate should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependant of a deceased employee is an exception to the said rule. It is a concession, not a right."

7. The Supreme Court, in another judgment in *State of Haryana v. Ankur Gupta*. (2004) 1 SCT 165, has held as under :-

" As was observed in *State of Haryana v. Rani Devi*, 1996(4) SCT 63 : (1996) 5 SCC 308 it need not be pointed out that the claim of the person concerned for appointment on compassionate ground is based on the premise that he was dependent on the deceased employee. Strictly, this claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. That is why it is necessary for the authorities to frame rules, regulations or to issue such administrative orders which can stand the test of Articles 14 and 16. Appointment on compassionate ground cannot be claimed as a matter of right.....The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased."

8. The present case has been considered by the respondent authorities taking into consideration the relevant rules, the eligibility criteria as also the financial condition of the family. Learned counsel for the petitioner has not been able to

produce any material to show that the impugned order dated 31.7.2013, Annexure P.6 passed by the respondent authorities is illegal or erroneous. Consequently, finding no merit in the petition, the same is hereby dismissed.