

(2005) 09 P&H CK 0075
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 14261 of 2005

Lachhman Singh	Vs	APPELLANT
Uttri Haryana Bijli Vitran Nigam Limited		RESPONDENT

Date of Decision : 05-09-2005

Acts Referred:

Citation : (2006) 142 PLR 330

Hon'ble Judges : S.S. Nijjar, J;Nirmal Yadav, J

Bench : Division Bench

Advocate : R.K. Malik, for the Appellant;

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—We have heard the learned counsel for the petitioner at length and perused the record of the case.

2. Mr. Malik submits that the claim of the petitioner has been wrongly rejected on the ground that he was over-age. Under the amendment, the maximum age has been raised from 25 years to 30 years. In our opinion, even if the reason assigned by the respondents is not well founded with regard to the age bar, the petitioner still cannot be granted any relief in view of the law laid down by the Supreme Court in the case of Umesh Kitarnar Nagpal v. State of Haryana 1994 (3) S.C.T. 174. In the aforesaid case, the Supreme Court has clearly observed as follows:-

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 interest of justice and to meet certain contingencies. One such exception is in favour of the dependents 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 dependents 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.

3. The aforesaid observations make it abundantly clear that the object giving appointment on compassionate grounds is only to assist the family in an emergency who has fallen into abject penury due to the death of the only breadwinner of the family. The object is not to replace the deceased employee with the dependent of the deceased employee. In the present case, the father of the petitioner passed away on 17.6.2003. Therefore, in our opinion, the claim of the petitioner cannot be said to fall within the exception carved out in the observations made by the Supreme Court.

4. At this stage, Mr. Malik submits that the claim of the petitioner could not be rejected within a period of three years of the death of his father as the policy itself envisages that the dependent of a deceased employee can make application for appointment on compassionate grounds within a period of three years of the death of an employee. We find no force in this contention. The clause merely gives an outer limit to the dependent of the deceased employee to make the application. It does not bar the employer to consider and reject the application even within the period of three years.

5. We find no merit in the present petition.

6. Dismissed.