

**(2024) 11 SHI CK 0011**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP No. 6761 Of 2022**

Sh. Som Dutt

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

**Date of Decision :** 19-11-2024

**Acts Referred:**

**Citation :** (2024) 11 SHI CK 0011

**Hon'ble Judges :** Ajay Mohan Goel, J

**Bench :** Single Bench

**Advocate :** Parav Sharma, Pushpinder Jaswal

**Final Decision :** Dismissed

## Judgement

Ajay Mohan Goel, J

1. By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

i) "That the impugned order dated 11.02.2022 (Annexure P-20) may kindly be quashed and set aside.

ii) That the respondents may kindly be directed to consider the case of the petitioner for employment on compassionate ground as he fulfills the eligibility criteria as per the policy/guidelines dated 07.03.2019 and 01.11.2019 and as per the instruction dated 24.08.2002, 02.09.2002."

2. The facts necessary for the adjudication of the petition are that the father of the petitioner unfortunately died in harness on 30.12.2000, when the petitioner was a minor. When the petitioner attained the age of majority, he applied for appointment on compassionate ground. The case of the petitioner was rejected by the Authority, in terms of Annexure P-7, communication dated 19.07.2013, by assigning the following reasons:-

"I am directed to refer to your letter No. No.P.II(3) Anukampa/Som Dutt/

C&TS/2012-28262 dated 09.10.2012 & No.P.II(3) Anukampa/Som Dutt/ C&TS/2012-13222 dated 14.05.2013, on the subject cited above and to say that the matter under reference has been examined at Government level in detail in consultation with Finance Deptt, who have observed that the proposal of the Department does not meet the financial/income criteria so fixed by the Government in FD as per DOP's instruction(s) dated 24.08.2002 & 02.09.2002 vis-à-vis FD's latest instruction dated 21.12.2012. Thus it cannot be considered.

You are therefore requested to take further action in the matter accordingly. The enclosures so received with your above referred letter dated 19.10.2012 are returned herewith in original."

3. Rather than assailing the rejection, the petitioner thereafter again applied for appointment on compassionate basis. In terms of impugned order Annexure P-20, the petitioner has been informed that his case for grant of compassionate appointment cannot be processed in the light of the fact that his case earlier stood rejected by the Authority on 19.07.2013.

4. Learned counsel for the petitioner has submitted that once the respondents had entertained the application of the petitioner for reconsideration on compassionate basis after the initial rejection on 19.07.2013, the act of the respondents of not offering him appointment and rejecting the case of the petitioner is not sustainable in law. He submits that in these circumstances, the impugned order be set aside and the respondents be directed to offer appointment to the petitioner on compassionate basis.

5. On the other hand, learned Additional Advocate General has submitted that the case of the petitioner was rejected on 19.07.2013, and the order was not assailed by the petitioner. Thereafter, he continued to approach the Authorities again seeking appointment on compassionate basis and when the case of the petitioner was taken up for consideration and this fact came to the notice of the Authority that his case already stood rejected in the year 2013 itself, the petitioner was accordingly informed in terms of the impugned Annexure P-20 dated 11.02.2022. Accordingly, learned Additional Advocate General has submitted that as there is no infirmity in the order assailed, the petition be dismissed.

6. I have heard learned counsel for the parties and have also carefully gone through the pleadings as well as the documents appended therewith.

7. It is not in dispute that the case of the petitioner for grant of compassionate appointment was rejected by the Authority on 19.07.2013. The rejection was on the ground that the proposal was not in consonance with the financial/income criteria fixed by the Government, as per the latest instructions issued by the Government. The order passed by the Authority on 19.07.2013 was not assailed by the petitioner. In other words, the order attained finality. Without laying challenge to this order, in terms whereof, this requests of the petitioner for grant of compassionate appointment was rejected, he again took up the matter with

the Authority for grant of compassionate appointment and in terms of the impugned Annexure, the petitioner has been informed that as his case stood earlier rejected on 19.07.2013, therefore, he was not eligible for seeking reliefs.

8. This Court is of the considered view that in the light of the fact that the earlier order of rejection dated 19.07.2013 was not challenged by the petitioner and it has attained finality, the respondents were well within their right to reject the case of the petitioner in view of the earlier rejection of the case of the petitioner.

9. Incidentally, in the present case also, the petitioner has not assailed Annexure P-7 dated 19.07.2013 and what has assailed is the communication informing the petitioner that he cannot be considered for providing employment on compassionate ground as his case earlier stood rejected on 19.07.2013.

10. This Court is of the considered view that until and unless the petitioner got rid of the order, in terms whereof, his case was rejected, the Authorities were well within their domain to have rejected the subsequent application for grant of appointment on compassionate basis. Simply because, the subsequent application of the petitioner was entertained by the Department, this did not amount to estoppel so as to disentitle the respondents to take the stand as has been taken in the impugned order.

11. In the light of the above observations, as this Court does not find any merit in this petition, the same is dismissed. Pending miscellaneous applications, if any, also stand disposed of.