

(2004) 12 P&H CK 0045
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6542 of 2003

Shiv Kumar Sharma

APPELLANT

Vs

Punjab National Bank and Others

RESPONDENT

Date of Decision : 02-12-2004

Acts Referred:

Citation : (2005) 105 FLR 452 : (2005) 139 PLR 525

Hon'ble Judges : S.S. Nijjar, J;J.S. Narang, J

Bench : Division Bench

Advocate : H.C. Arora and Ravinder Jain, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—We have heard the learned counsel for the parties at length and perused the paper-book.

2. The father of the petitioner died on 13.10.2000. The application made by the petitioner for appointment on compassionate ground has been rejected by the respondents on 30.10.2001. While coming to the conclusion that the petitioner cannot be granted the appointment, the respondents have taken into account the total retiral benefits released to the dependents of the deceased. The respondents have come to the conclusion that given the last pay drawn by the deceased, there would hardly be any difference in the standard of living of the dependents. The take-home pay of the deceased at the relevant time was Rs. 4717.72. The income from the retiral benefits would be almost the same amount. Considering the circumstances in which appointment can be granted on compassionate grounds, the Supreme Court in the case of Umesh Kumar Nagpal v. State of Haryana 1994(3) S.C.T. 174 has held as follows:-

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the

financial crisis which it faces at the time of the death of the sole bread-winner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

2. Mr. Arora has, however, submitted that wrong information was given to the competent authority with regard to the retiral benefits received by the petitioner and the other members of the family of the deceased. In the impugned order, it has been wrongly stated that a sum of Rs. 206,604/- has been paid as gratuity and Rs. 20,982.74 as provident fund. In fact, a sum of Rs. 1,87,000/- was paid. The other figures mentioned in the impugned order are not disputed by the petitioner. We are of the opinion that the slight variation in the amounts mentioned and the amounts received by the petitioner and his family would not be sufficient to hold that the decision of the respondents is based on extraneous considerations.

3. Mr. Arora has also argued that the respondents have wrongly taken into account the net salary of the deceased and the gross salary ought to have been considered. We are unable to accept the aforesaid submission. The dependents of the deceased would have been looked after from the net salary only. Therefore, it cannot be said that the income of the deceased at the time of his death has been wrongly assessed. The Supreme Court in Umesh Kumar Nagpal's case (*supra*) has clearly held that 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. However, an exception, out of pure humanitarian considerations has been made in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. A provision is, therefore, made to enable the family to make both ends meet. The whole object of granting compassionate employment is 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 the post held by the deceased. Furthermore, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. In our opinion, the respondents have examined the case of the petitioner by taking into consideration the relevant factors. Therefore, the decision cannot be said to be either unreasonable or arbitrary. It would not be appropriate for this Court to substitute its own opinion for the opinion of the appropriate authority unless the same is shown to be so unreasonable as to be termed "arbitrary".

4. In view of the above, we find no merit in the writ petition and the same is hereby dismissed. No costs.