

2025:PHHC:022541-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

1. **LPA No. 1109 of 2018 (O&M)**  
**Date of Decision:13.02.2025**  
**Jaskaran Singh**

**.....Appellant**

**Versus**

**State of Punjab and others**

**..... Respondents**

2.

**LPA No. 1750 of 2018 (O&M)**  
**Sawaranjit Singh**

**.....Appellant**

**Versus**

**State of Punjab and others**

**.....Respondents**

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**  
**HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Vikas Gupta, Advocate  
for appellant (in LPA No. 1109 of 2018).

Mr. Amarjit Singh Virk, Advocate  
and Mr. Gurbir Singh Sidhu, Advocate  
for appellant (in LPA No. 1750 of 2018).

Mr. Shekhar Verma, Addl.AG., Punjab.

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**LISA GILL, J.**

1. LPA No.1109 and 1750 of 2018 are taken up together for consideration and adjudication at request and with consent of learned counsel for the parties as both appeals arise out of common order dated

28.02.2018, passed by learned Single Bench, whereby CWP Nos. 4915 and 4722 of 2018 have been dismissed.

2. Appellant-Jaskaran Singh filed CWP No. 4915 of 2018 and appellant-Sawaranjit Singh filed CWP No. 4722 of 2018 with the grievance that their claim for appointment on compassionate basis has been incorrectly rejected.

3. Appellant-Jaskaran Singh submitted application dated 29.12.2016 seeking compassionate appointment on account of death of his father on 07.07.2015. His father was stated to be serving the Police Department as Inspector in the Intelligence Wing at the time of his unfortunate demise. He had attained the age of superannuation on 31.07.2014 and was granted an extension for a period of one year. He unfortunately passed away on 07.07.2015 during this period. Appellant's mother after the demise of her husband submitted an application dated 30.05.2016 for appointment of her son (present appellant) on compassionate basis. The claim was rejected on 08.09.2016 on the ground that as per relevant policy/instructions, case of legal heirs of employee who die during extension period cannot be considered for appointment on compassionate basis. Appellant again applied for appointment on compassionate basis subsequent to issuance of instructions dated 27.12.2016 which was also rejected on 22.05.2017 with the observation that instructions dated 27.12.2016 stood withdrawn on 29.03.2017.

4. Appellant-Sawaranjit Singh vide his application dated 19.02.2016, sought appointment on compassionate basis on account of death of his father on 02.12.2015. His father was serving as Mali at Government Senior Secondary School, Bhadaur, District Barnala. He

attained the age of superannuation on 31.05.2015 and was granted extension of service for one year. Claim of said appellant for appointment on compassionate basis was also rejected on the ground that no such benefit can be afforded to the dependents/legal heirs of employees who passed away while serving on extension.

5. Aggrieved therefrom, abovesaid writ petitions were filed with the foundation of their claim resting on instructions dated 27.12.2016, whereby Government of Punjab had extended benefit of appointment on compassionate basis to legal heirs of Group-A, B, C and D employees, in case, they passed away during extension period of service. These instructions were made applicable from 08.10.2012. Claim submitted by appellants/writ-petitioners was declined by the authorities on the basis of subsequent instructions dated 29.03.2017, whereby Government of Punjab decided to withdraw instructions dated 27.12.2016.

6. Aggrieved therefrom, abovesaid writ petitions were filed. Learned Single Bench on considering the facts and circumstances, found no ground to interfere. It was held that when the employees in question had passed away, policy dated 27.12.2016 was not in existence. Therefore, departments in question were well within their right to decline the claim as no indefeasible right for appointment came to vest in the writ-petitioners.

7. Aggrieved therefrom, present appeals have been filed.

8. Learned counsel for appellants/writ-petitioners vehemently argue that though instructions dated 27.12.2016 were admittedly issued after the death of respective parent of the writ-petitioners, these instructions were made applicable with retrospective effect from

08.10.2012. Therefore, it shall be deemed that instructions dated 27.12.2016 were in vogue at the time of death of the employees. Number of other persons had been issued appointment letters during subsistence of instructions dated 27.12.2016 up to 29.03.2017. Therefore, rejection of appellants/writ-petitioners claim, is not justified. It is thus prayed that both these appeals be allowed, and writ petitions filed by appellants/writ-petitioners be allowed as prayed for.

9. Learned counsel for respondents has opposed the appeals while submitting that appointment on compassionate basis is not a vested right available with the legal heirs of an employee. As per policy dated 21.11.2002, there is no provision for affording appointment on compassionate basis to legal heirs/dependents of the employees who were on extension in service after having attained the age of superannuation. It is thus prayed that both these appeals be dismissed.

10. We have heard learned counsel for the parties and have gone through the file with their able assistance.

11. It is a matter of record that respective father of each of the writ-petitioner unfortunately passed away during the period of extension of service granted to them, after they had attained the age of superannuation. It is also a matter of record that application for appointment on compassionate basis submitted by appellant/writ-petitioner Jaskaran Singh had been rejected on 08.09.2016, which was apparently accepted by him. Foundation of appellants/writ-petitioners in both appeals solely rests upon instructions dated 27.12.2016 which were admittedly withdrawn on 29.03.2017. Appellant/writ-petitioner-Jaskaran Singh submitted his second application after more than a year of his father's passing away and after rejection of his first application on

08.09.2016. Though, in the case of Sawaranjit Singh, application was filed on 19.02.2016 with his father having passed away on 02.12.2015, at the time of death of the employee in question, policy dated 27.12.2016 was not in existence. As noted in foregoing paras, foundation of appellants/writ-petitioners claim rests on instructions dated 27.12.2016. Earlier instructions dated 21.10.2014 as referred to in instructions dated 27.12.2016 provided that cases for compassionate appointments of wards of employees, who died during the extension period of service shall not be considered. Vide instructions dated 27.12.2016 it was stated that now the Government had decided to afford this benefit to wards of employees who died during the extension period. Said instructions dated 27.12.2016 were made applicable w.e.f., 08.12.2012. Learned counsel for the appellants vehemently argue that in view of the fact that instructions dated 27.12.2016 were made applicable w.e.f., 08.12.2012, it was incumbent upon the department to have considered the case of the appellants for appointment on compassionate basis because the death of their respective parents necessarily fell in the said period.

12. It is pertinent to note at this juncture that Hon'ble the Supreme Court in the case of **Canara Bank Vs. Ajith Kumar G.K, Civil Appeal No. 255 of 2025 (Arising out of SLP (Civil) No. 30532 of 2019), decided on 11.02.2025**, has taken note of the grey area in respect to the issue about consideration of the application on the basis of compassionate appointment with reference to the policy/instructions as available and applicable on the date of the death of the employee or the norms prevailing on the date of consideration of the application. Divergent views of Hon'ble the Supreme Court in the case of **Canara Bank Vs. M. Mahesh Kumar, 2015 (7) SCC 412** and the subsequent

decisions in **State of Madhya Pradesh Vs. Amit Shrivastava, (2020) 10 SCC 496**, **Indian Bank Vs. Promila, (2020) 2 SCC 729**, **State of Madhya Pradesh Vs. Ashish Awasthi, (2022) 2 SCC 157** and the subsequent reference made in the case of **State Bank of India Vs. Sheo Shankar Tewari, (2019) 5 SCC 600**, which is pending adjudication before Larger Bench has been discussed. Hon'ble the Supreme Court observed that it is indeed debatable whether a policy for compassionate appointment which is in the nature of an executive order can have retrospective application. While noting the position as above, the controversy at hand was decided keeping in view the nature of *lis*.

13. In the present matter, a material aspect to be considered is the fact that appointment on compassionate basis is afforded to prevent destitution of family of an employee and protection from immediate financial difficulties or penury which the family may face on sudden death of employee. In the instant matters, employees in question, had admittedly passed away during the period of extension of service afforded to them. Both of them had already attained the age of superannuation. Therefore, it can be reasonably presumed that they had made adequate arrangements for their families by this time. It is a settled position that appointment on compassionate basis is meant to help the family of an employee tide over a crisis, which may engulf them on the death of employee while in service. The purpose is to save the family from destitution and is definitely not an alternate mode of recruitment. Such appointment cannot be claimed or offered after considerable or significant lapse of time or after the crisis is over. Hon'ble the Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana and others,**

**1994(3) SCT 174** held that whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was accepted as it bore a rational nexus to the object sought to be achieved viz. relief against destitution. It was, however, held that compassionate appointment can't be claimed when the crisis is over and neither can it be offered on an ad hoc basis.

14. Appointment on compassionate basis being a concession and not a right, criteria laid down in the rules must be strictly adhered to. Reference was made to its earlier judgment in **Bhawani Prasad Sonkar Vs. Union of India (2011) 4 SCC 209**, wherein it is observed that as appointment based solely on descent is inimical to our constitutional scheme, and being an exception, the scheme has to be strictly construed and confined solely to the purpose it seeks to achieve.

15. Hon'ble the Supreme Court in **Canara Bank Vs. Ajith Kumar G.K (supra)**, reiterated this position while referring to its earlier judgments and held that whole object of granting compassionate employment is intended to enable family members of a deceased or incapacitated employee to tide over sudden financial crisis, it is a concession not a right, with none entitled to claim it by way of inheritance. It was held as under:-

“29. The second sub-issue pertains to the real objective sought to be achieved by offering compassionate appointment. We have noticed the objectives of the scheme of 1993 and construe such objectives as salutary for deciding any claim for compassionate appointment. The underlying idea behind compassionate appointment in death-in-harness

cases appears to be that the premature and unexpected passing away of the employee, who was the only bread earner for the family, leaves the family members in such penurious condition that but for an appointment on compassionate ground, they may not survive. There cannot be a straitjacket formula applicable uniformly to all cases of employees dying-in-harness which would warrant appointment on compassionate grounds. Each case has its own peculiar features and is required to be dealt with bearing in mind the financial condition of the family. It is only in “hand-to-mouth” cases that a claim for compassionate appointment ought to be considered and granted, if at all other conditions are satisfied. Such “hand-to-mouth” cases would include cases where the family of the deceased is ‘below poverty line’ and struggling to pay basic expenses such as food, rent, utilities, etc., arising out of lack of any steady source of sustenance. This has to be distinguished from a mere fall in standard of life arising out of the death of the bread earner.

16. In the present case, we take note of the fact that there is no averment in the writ petitions or even in the grounds of appeals that writ-petitioners and family of the deceased was in such a state of penury that they were in a hand to mouth condition.

17. Learned counsel for appellant-Jaskaran Singh informed that he has since married and has three children besides a dependent mother. The mother is in receipt of family pension. Though, appellant-Swaranjit Singh, who is now 41 years old is still stated to be unmarried, his sister has since married. It is confirmed that all retiral benefits/*ex gratia* benefits due to the employees concerned had been released at the relevant point of time.

18. Be that is may, it is to be reiterated that nothing on record has been pointed out to indicate that appellants/writ-petitioners are in a

state of penury, at this stage, which calls for their appointment on compassionate basis at this stage.

19. Learned counsel for the appellants were unable to point out any illegality, infirmity or perversity in the impugned order dated 28.02.2018, which calls for interference by this Court.

20. No other argument was addressed.

21. Keeping in view the facts and circumstances as above, both the appeals i.e., LPA Nos. 1109 and 1750 of 2018 are dismissed being devoid of any merit. Pending application(s), if any, stand(s) disposed of accordingly.

**( LISA GILL )**  
**JUDGE**

**(ALOK JAIN)**  
**JUDGE**

**February 13, 2025.**

s.khan

Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No.