



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

**CWP-9699-2020**

**Reserved on: 07.05.2025**

**Pronounced on: 13.05.2025**

Sumit .....Petitioner(s)

Versus

State of Haryana and others ....Respondent(s)

<b><i>Sr. No.</i></b>	<b><i>Case No.</i></b>	<b><i>Parties Name</i></b>
2.	CWP-9922-2022	Pankaj vs. State of Haryana and others
3.	CWP-15091-2021	Lalit vs. State of Haryana and others
4.	CWP-21564-2021	Vinod Kumar vs. State of Haryana and others
5.	CWP-25670-2024	Sonu Kumar vs. State of Haryana and others

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. S.S. Sahu, Advocate, for the petitioner(s).

Ms. Palika Monga, DAG, Haryana.

Ms. Nikita Goel, Advocate,  
for respondent No.2.

**JAGMOHAN BANSAL, J.**

1. By this common order, above noted writ petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from ***CWP-9699-2020***.

2. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking direction to respondent to consider him for appointment on compassionate ground.



3. The petitioner's father was working with M/s. Bhuna Co-operative Sugar Mill. The said mill came to be closed in terms of Section 105 of Co-operative Societies Act, 1984 (in short '1984 Act'). The reason for closure of the unit was accumulated losses. A liquidator was appointed to complete winding up process. The Managing Director, Haryana Federation of Cooperative Sugar Mills (in short "Sugarfed") decided to adjust all the employees of Bhuna Sugar Mill in other cooperative sugar mills, however, they could not be adjusted. Many employees approached this Court by way of **CWP-17837-2006** titled ***Bhim Sain and others vs. State of Haryana and others*** which came to be disposed of vide judgment dated 28.01.2015. The operative part of the judgment is reproduced as below:-

*“Having heard the learned counsel for the parties at considerable length and after giving thoughtful consideration to the peculiar fact situation noticed hereinabove, all these writ petitions are disposed of with direction to the respondent authorities to adjust all the ex-employees of the erstwhile Bhuna Cooperative Sugar Mills including the petitioners, on the posts of their respective categories, against available vacant posts in other cooperative sugar mills, as well as other cooperative institutions of the respondent State, as early as possible, subject to fulfillment of eligibility criteria, prescribed under the relevant Service Rules, however, granting relaxation in age, wherever it is required.*

*It is further directed that the respondent authorities shall make an endeavour to adjust all the ex-employees of erstwhile Bhuna Cooperative Sugar Mills in their respective categories, at an early date because it will be in the interest of the petitioners as well as the*



*Welfare State. Except in the emergent situations, the respondent authorities shall not fill any vacant post in the cooperative sugar mills as well as other cooperative institutions in the State, till the ex-employees of erstwhile Bhuna Cooperative Sugar Mills are adjusted. However, it is also made clear that the appointments given to the ex-employees of erstwhile Bhuna Cooperative Sugar Mills would be treated as fresh appointments.*

*With the abovesaid observations made and directions issued, all these writ petitions stand disposed of, however, with no order as to the costs.”*

4. The respondent in compliance of aforesaid order adjusted few ex-employees of aforesaid mill, however, others could not be adjusted. Many ex-employees preferred **CWP-20055-2017** titled **Zile Singh and others vs. State of Haryana and others** before this Court which came to be allowed vide order dated 11.07.2019. The operative portion of order dated 11.07.2019 is reproduced as below:-

*“As an upshot of my aforementioned findings, the writ petition is allowed. Petitioner Nos. 2, 7, 10, 12 and 23 are directed to be appointed on the posts already lying vacant and as regards the other petitioners, the respondents will call upon them to give an indemnity or undertaking for accepting the lower post owing to the acquisition of lower qualification. Let this exercise be done within a period of three months from the date of receipt of certified copy of this order. In case no action is taken, it will entail into costs of Rs. 1,00,000/-, upon the person who is responsible for not taking the decision.”*



5. Father of petitioner went missing on 11.10.2009. The petitioner and his mother filed suit for declaration before Civil Court at Hisar. Learned Additional Civil Judge (Sr. Divn.), Hisar vide judgment dated 28.03.2019 decreed the suit and declared Ramphal 'dead' as per Section 108 of The Indian Evidence Act, 1872. The operative portion of judgment dated 28.03.2019 reads as under:-

*“30. In view of my finding under issue No. 1, the suit of the plaintiffs is hereby partly decreed to the effect that Ramphal is hereby declared dead as per the presumption of Section 108 of the Indian Evidence Act having died civil death. The suit qua remaining reliefs claimed by the plaintiffs is dismissed being vague in nature. Parties are left to bear their own costs. Decree-sheet be prepared and file be consigned to the record room after due compliance.”*

6. Like aforesaid petitioner, father of Vinod Kumar (petitioner in CWP-21564-2021) passed away on 26.12.2009, father of Lalit (petitioner in CWP-15091-2021)) passed away on 03.02.2010, Pankaj's father (petitioner in CWP-9922-2022) passed away on 06.10.2010 and Sonu's father (petitioner in CWP-25670-2024) passed away on 28.12.2006.

7. Learned counsel for the petitioners submits that as per Rule 5 of Haryana Compassionate Assistance to the Dependents of Deceased Cooperative Sugar Mills Employees Rules, 2005 (in short '2005 Rules'), the petitioners are entitled to compassionate appointment. The respondent in terms of orders of this Court has adjusted almost all the ex-employees of Bhuna Sugar



Mill. The petitioners could not get benefit of orders of this Court on account of death of their dear one. The respondent has adjusted all the employees in other Sugar Mills or Societies of the State Government, thus, respondent was bound to grant benefit of compassionate appointment to the petitioners. The respondent has rejected claim of the petitioners on the sole ground that there is no discussion about compassionate appointment in the orders of High Court, thus, petitioners' claim cannot be considered for compassionate appointment. This Court may direct respondents to grant them compassionate appointment.

8. *Per contra*, Ms. Nikita submits that this Court vide orders dated 28.01.2015 and 11.07.2019 ordered to adjust all the ex-employees of Bhuna Sugar Mill. The petitioner's father was missing as per petitioner himself since 2009. The State Government's Policy of compassionate appointment is inapplicable to employees of Sugar Mill. Employees of sugar mill are governed by Bye-laws of Hayana State Federation of Cooperative Sugar Mills Ltd. The claim of petitioners is governed by Rule 5 of 2005 Rules. The sugar mill stands liquidated and employees in question have passed away after liquidation of the sugar mill. Their dependant cannot be granted benefit of compassionate appointment. They have approached this Court after quite a long time.

9. I have heard the arguments and perused the record.

10. Object of compassionate appointment or ex-gratia payment is to protect the family of deceased employee from being driven to destitution, penury and starvation. The object of the appointment on compassionate ground is not to give a member of the deceased employee's family a post, much less a post for a post held by the deceased but to provide relief to the family of a



deceased employee to tide over the sudden crisis erupted by his/her premature death. This relief provides the distressed family immediate succour and financial assistance to recover from the unexpected deprivation of the income of the sole bread-winner of the family. It is not one of the sources of engagement of employees.

11. A two Judge Bench of Supreme Court vide judgment dated 11.02.2025 titled as “**Canara Bank vs. Ajithkumar G.K.**”, **2025 SCC OnLine SC 290**, has adverted to issue of compassionate appointment. The Court has laid down 26 principles with respect to compassionate appointment and the relevant extracts of the judgments are reproduced as below:-

*11. Decisions of this Court on the contours of appointment on compassionate ground are legion and it would be apt for us to consider certain well-settled principles, which have crystallized through precedents into a rule of law. They are (not in sequential but contextual order):*

*a) Appointment on compassionate ground, which is offered on humanitarian grounds, is an exception to the rule of equality in the matter of public employment [see **General Manager, State Bank of India v. Anju Jain, (2008) 8 SCC 475**].*

*b) Compassionate appointment cannot be made in the absence of rules or instructions [see **Haryana State Electricity Board v. Krishna Devi, (2002) 10 SCC 246**].*

*c) Compassionate appointment is ordinarily offered in two contingencies carved out as exceptions to the general rule, viz. to meet the sudden crisis occurring in a family either on account of death or of*



*medical invalidation of the breadwinner while in service [see **V. Sivamurthy v. Union of India, (2008) 13 SCC 730**].*

*d) The whole object of granting compassionate employment by an employer being intended to enable the family members of a deceased or an incapacitated employee to tide over the sudden financial crisis, appointments on compassionate ground should be made immediately to redeem the family in distress [see **Sushma Gosain v. Union of India, (1989) 4 SCC 468**].*

*e) Since rules relating to compassionate appointment permit a side-door entry, the same have to be given strict interpretation [see **Uttaranchal Jal Sansthan v. Laxmi Devi, (2009) 11 SCC 453**].*

*f) Compassionate appointment is a concession and not a right and the criteria laid down in the Rules must be satisfied by all aspirants [see **SAIL v. Madhusudan Das, (2008) 15 SCC 560**].*

*g) None can claim compassionate appointment by way of inheritance [see **State of Chattisgarh v. Dhirjo Kumar Sengar, (2009) 13 SCC 600**].*

*h) Appointment based solely on descent is inimical to our constitutional scheme, and being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve [see **Bhawani Prasad Sonkar v. Union of India, (2011) 4 SCC 209**].*

*i) None can claim compassionate appointment, on the occurrence of death/medical incapacitation of the concerned employee (the sole bread earner of the family), as if it were a vested right, and any*



*appointment without considering the financial condition of the family of the deceased is legally impermissible [see **Union of India v. Amrita Sinha, (2021) 20 SCC 695**].*

*j) An application for compassionate appointment has to be made immediately upon death/incapacitation and in any case within a reasonable period thereof or else a presumption could be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. Such appointment not being a vested right, the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of time and after the crisis is over [see **Eastern Coalfields Ltd. v. Anil Badyakar, (2009) 13 SCC 112**].*

*k) The object of compassionate employment is not to give a member of a family of the deceased employee a post much less a post for post held by the deceased. Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Class III and IV is legally impermissible [see **Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138**].*

*l) Indigence of the dependents of the deceased employee is the first precondition to bring the case under the scheme of compassionate appointment. If the element of indigence and the need to provide immediate assistance for relief from financial destitution is taken away from compassionate appointment, it would turn out to be a reservation in favour of the dependents of the employee who died while in service which would*



*directly be in conflict with the ideal of equality guaranteed under Articles [14](#) and [16](#) of the Constitution [see **Union of India v. B. Kishore, (2011) 13 SCC 131**].*

*m) The idea of compassionate appointment is not to provide for endless compassion [see **I.G. (Karmik) v. Prahalad Mani Tripathi, (2007) 6 SCC 162**].*

*n) Satisfaction that the family members have been facing financial distress and that an appointment on compassionate ground may assist them to tide over such distress is not enough; the dependent must fulfil the eligibility criteria for such appointment [see **State of Gujarat v. Arvindkumar T. Tiwari, (2012) 9 SCC 545**].*

*o) There cannot be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there are some specific provisions [see **Sanjay Kumar v. State of Bihar, (2000) 7 SCC 192**].*

*p) Grant of family pension or payment of terminal benefits cannot be treated as substitute for providing employment assistance. Also, it is only in rare cases and that too if provided by the scheme for compassionate appointment and not otherwise, that a dependent who was a minor on the date of death/incapacitation, can be considered for appointment upon attaining majority [see **Canara Bank (supra)**].*

*q) An appointment on compassionate ground made many years after the death/incapacitation of the employee or without due consideration of the financial resources available to the dependent of the*



*deceased/incapacitated employee would be directly in conflict with Articles [14](#) and [16](#) of the Constitution [see **National Institute of Technology v. Niraj Kumar Singh, (2007) 2 SCC 481**].*

*r) Dependents if gainfully employed cannot be considered [see **Haryana Public Service Commission v. Harinder Singh, (1998) 5 SCC 452**].*

*s) The retiral benefits received by the heirs of the deceased employee are to be taken into consideration to determine if the family of the deceased is left in penury. The court cannot dilute the criterion of penury to one of "not very well-to-do". [see **General Manager (D and PB) v. Kunti Tiwary, (2004) 7 SCC 271**].*

*t) Financial condition of the family of the deceased employee, allegedly in distress or penury, has to be evaluated or else the object of the scheme would stand defeated inasmuch as in such an eventuality, any and every dependent of an employee dying-in- harness would claim employment as if public employment is heritable [see **Union of India v. Shashank Goswami, (2012) 11 SCC 307, Union Bank of India v. M. T. Latheesh, (2006) 7 SCC 350, National Hydroelectric Power Corporation v. Nank Chand, (2004) 12 SCC 487 and Punjab National Bank v. Ashwini Kumar Taneja, (2004) 7 SCC 265**].*

*u) The terminal benefits, investments, monthly family income including the family pension and income of family from other sources, viz. agricultural land were rightly taken into consideration by the authority to decide whether the family is living in penury. [see **Somvir Singh (supra)**].*



v) *The benefits received by widow of deceased employee under Family Benefit Scheme assuring monthly payment cannot stand in her way for compassionate appointment. Family Benefit Scheme cannot be equated with benefits of compassionate appointment. [see **Balbir Kaur v. SAIL, (2000) 6 SCC 493**]*

w) *The fixation of an income slab is, in fact, a measure which dilutes the element of arbitrariness. While, undoubtedly, the facts of each individual case have to be borne in mind in taking a decision, the fixation of an income slab subserves the purpose of bringing objectivity and uniformity in the process of decision making. [see **State of H.P. v. Shashi Kumar, (2019) 3 SCC 653**].*

x) *Courts cannot confer benediction impelled by sympathetic consideration [see **Life Insurance Corporation of India v. Asha Ramchandra Ambekar, (1994) 2 SCC 718**].*

y) *Courts cannot allow compassionate appointment dehors the statutory regulations/instructions. Hardship of the candidate does not entitle him to appointment dehors such regulations/instructions [see **SBI v. Jaspal Kaur, (2007) 9 SCC 571**].*

z) *An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy [see **Kendriya Vidyalaya Sangathan v. Dharmendra Sharma, (2007) 8 SCC 148**].*

12. In the case in hand, petitioner's father went missing in 2009 and petitioner did not file petition either with petitioner of CWP-17837-2016 or



CWP-20055-2017. He remained silent till 2020 and is claiming compassionate appointment after 11 years from the date of missing of his father and 14 years from the date of closure of unit. Similarly, Vinod's father passed away on 26.12.2009, Lalit's father on 03.02.2010, Pankaj's father on 06.10.2010 and Sonu's father on 28.12.2006. It is apt to notice that sugar mill was closed in 2006 and deceased employees did not approach this Court during their lifetime though other employees filed petitions in 2006 itself. Sugar mill where deceased employees were working stands liquidated and if for the sake of adjudication it is assumed to be working, the petitioner's claim is hit by doctrine of delay and laches. As per Rule 4 of 2005 Rules, dependants of deceased employees have to file option within 6 months from the date of death. This Clause cannot be stretched to multiple years. The petitioners cannot take advantage of orders passed by this Court in CWP-17837-2006 and CWP-20055-2017 because their case is entirely different. Dependant of an employee cannot be put at par with employee. In any case, had they approached this Court within reasonable period, the outcome could be different.

13. In the wake of above discussion and findings, instant petitions deserve to be dismissed and accordingly dismissed.

13.05.2025

(JAGMOHAN BANSAL)

shivani

JUDGE

Whether reasoned/speaking

Yes

Whether reportable

Yes