



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

129

CWP-942-2025

Date of decision: 18.02.2025

SUBHAM

...PETITIONER

VERSUS

THE UNION TERRITORY OF CHANDIGARH AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Malkit Kaur, Advocate
for the petitioner.

Mr. Ashish Rawal, Advocate,
Mr. Aman Pal, Addl. Standing Counsel and
Ms. Aashna Gill, Junior Panel Counsel
for respondents No.1, 3 to 5.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of the order dated 29.07.2024 (Annexure P-12) whereby respondent has rejected claim of the petitioner on the ground of limitation.

2. The petitioner's father was a regular Mali in the Horticulture Department, Division No.2, Chandigarh who passed away on 18.04.2007 in harness. He was survived by 6 dependents including petitioner. The petitioner's brother applied for compassionate appointment in the year 2007. The respondent found him eligible for appointment, however, he was not



offered appointment letter. The petitioner approached respondent vide letter dated 11.06.2023 seeking compassionate appointment. His application came to be rejected vide communication dated 28.12.2023 on the ground of limitation. The petitioner again approached the respondent, who vide communication dated 29.07.2024 rejected his claim on the ground of limitation.

3. Ms. Malkiat Kaur, Advocate submits that the petitioner's brother approached the respondents in the year 2007. Thus, there was no question of claim being time barred. The respondent neither accorded benefit of compassionate appointment to the petitioner's brother nor to him. The respondent was bound to consider the petitioner for compassionate appointment as his brother had executed an affidavit in his favour. Thus, his claim is in continuation of the application filed in the year 2007.

4. Mr. Ashish Rawal and Ms. Aashna Gill, Advocates submit that as per the policy, name of eligible candidates were kept in a list for 03 years which expired after 03 years. The petitioner's brother could not be appointed due to the lack of vacancy. At this stage, petitioner cannot be considered for the post in question.

5. I have heard the learned counsel for the parties and perused the record with their able assistance.

6. The petitioner is claiming that his right is in continuation of his brother's application. Firstly, it cannot be accepted that petitioner's right is in continuation of his brother's application and secondly, he approached respondent-authorities in the year 2023 and thereafter this Court in 2025, thus, his action is clearly time barred.

7. The object of compassionate appointment or ex-gratia payment is to protect family of the deceased employee from 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 brought about by his/her premature death. This relief provides the distressed family immediate succor and financial assistance to recover from the unexpected deprivation of the income of the sole bread-winner of the family.

8. 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 principals 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(2007) 6 SCC 162].

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].”

9. In *Canara Bank (supra)*, it has been held that none can claim compassionate appointment by way of inheritance and 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.

In the instant case, the petitioner has approached this Court qua compassionate appointment after 17 years from the date of death of his father. Compassionate appointment not being a vested right cannot be given after this considerable delay. The object of compassionate appointment would be defeated if petitioner at this stage is granted appointment.

10. In view of the above facts and circumstances of the case and the afore-cited judgment, the present petition deserves to be dismissed and accordingly dismissed.

18.02.2025

Nisha Yadav

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No