

LPA-2206-2024 (O&M)

2025:PHHC:025159-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-2206-2024 (O&M)
Date of decision: 20.02.2025

STATE OF PUNJAB AND ANOTHER Appellant(s)
Versus
RAKESH DHAWAN Respondent(s)

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

Present: Mr. Rohit Ahuja, D.A.G., Punjab
for appellant.

Mr. Shiv Kumar Sharma, Advocate
for respondent.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 24.03.2022, passed by learned Single Bench whereby CWP-19646-2019, filed by present respondent-writ petitioner was allowed, directing the State to reconsider his case for appointment on compassionate ground.

2. Writ petitioner had sought appointment on compassionate basis on account of death of his mother who died in harness while serving as Inspector with Punjab Police on 19.03.2012. His father retired as ASI from the Punjab Police. Writ petitioner filed an application dated 01.03.2013, seeking appointment to the post of Sub-Inspector/Inspector. In the meanwhile, CWP-3698-2014 was filed by petitioner's father seeking promotion of writ petitioner's mother (since deceased) from Inspector to the post of Deputy Superintendent of Police from the date her alleged immediate junior was promoted. During pendency of said writ

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petition, retrospective promotion qua writ petitioner's mother was afforded on 20.04.2017. CWP-3698/2024 was thus dismissed as infructuous.

3. Thereafter, claim of writ petitioner was sent for consideration and for grant of relaxation of 06 years, 09 months and 07 days in upper age limit. Case of respondent-writ petitioner for appointment on compassionate basis was rejected on the ground that he was over age. CWP-19646-2019 was filed by respondent challenging this action. Impugned action was found to be untenable by learned Single Bench and writ petition was allowed vide impugned order dated 24.03.2022, for consideration of appellant's case by the authorities, afresh.

4. In compliance thereof, speaking order dated 22.12.2022 was passed by the Chief Secretary, Government of Punjab, Department of Home Affairs & Justice. After examining the case, it was found that at the time of death of his mother, writ petitioner was about 32 years old, married and having a son. His father was receiving pension from the Punjab Government and the family owned a 500 square yard residential plot. While relying upon the judgment of Hon'ble the Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana and others, 1994 SCC 138**, it was concluded that writ petitioner was not entitled for appointment on compassionate basis and more so relaxation in the upper age limit by five years is meant for deserving cases only. Reference made by writ petitioner to two similar cases in which appointment had been afforded, was taken note of in order dated 20.12.2022 with a direction to examine the action to be taken in the said two cases where relaxation of age was incorrectly given. Notice to the said persons was also issued.

5. Learned counsel for appellants-State submits that filing of present appeal has been necessitated due to filing of COCP-2752-2022 wherein writ petitioner claimed that by way of impugned order dated 24.03.2022, his claim for

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appointment on compassionate basis had in fact been allowed and the only course open to the authorities was to afford him appointment on compassionate basis. Order dated 22.08.2024 was passed by learned Contempt Court whereby notice was issued to the concerned officer as to show cause why charges for contempt may not be initiated against him and due to this reason delay of 862 days in filing the appeal has occurred.

6. Keeping in view the facts and circumstances as above, we find that delay in filing of appeal is suitably explained. Same is accordingly condoned.

7. We have heard learned counsel for parties at length on merits of the matter as well and have gone through the file with their able assistance but do not find any merit in the argument raised by learned counsel for respondent-writ petitioner that authorities were not at liberty to consider any other aspect in respect to entitlement of writ petitioner for appointment on compassionate basis, after passing of order dated 24.03.2022 in CWP-19646-2019. Merely because it is mentioned in impugned order that writ petition is 'allowed', does not dis-entitle the authorities to examine the matter in its totality. Even if argument regarding the finding upon relaxation of age is accepted, by no stretch of imagination can it be accepted that the effect and import of impugned order dated 24.03.2022 is to definitely afford appointment to writ petitioner on compassionate basis while ignoring all other relevant factors.

8. Specific finding returned by learned Single Bench in its decision dated 24.03.2022 is that order dated 03.01.2019 rejecting the claim of the writ petitioner is without due application of mind inasmuch as it has only been rejected on the ground of writ petitioner being over age and that no other aspect had been considered by the competent authority. It is in this view of the matter

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that respondents were directed to reconsider the case of petitioner in view of the said observation.

9. It is a matter of record that the impugned order dated 24.03.2022 has already been complied with by passing of speaking order dated 22.12.2022. No order is called for in the present proceedings except to clarify that respondents were well within their right to have considered all the attending circumstances and relevant factors while dealing with the claim of writ petitioner seeking appointment on compassionate basis. Appeal is accordingly disposed of.

10. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

20.02.2025
Sunil

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