

2025:PHHC:049934



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

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CWP-34732-2024

Date of Decision: 07.04.2025

SHIV KUMAR

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Manan Bhardwaj, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 15.12.2023 (Annexure P-7) passed by respondent No.3 - Superintendent of Police, Yamuna Nagar whereby the claim of the petitioner for appointment on the post of Constable on ex-gratia/compassionate ground has been dismissed.

Learned counsel for the petitioner contends that the petitioner's father Dharam Singh, HC No.78/Yamuna Nagar, had been serving in the Haryana Police since 17.02.1979. He expired in a roadside accident on 13.06.2006, as verified from the official record, (wrongly mentioned as 12.03.2019 in the petition and the certificate of death appended with the petition actually relates to Vikas – brother of the petitioner). At the time of his death, Dharam Singh was 49 years of age and left behind his legal heirs. As the family faced financial hardship and there was no other earning

member in the family and that the mother of the petitioner was suffering from various ailments while the petitioner was a student of B.A. 1st Year, hence, mother of the petitioner applied for appointment of the petitioner on compassionate ground as per the rules and regulations/instructions which were applicable at that time. The case of the petitioner was forwarded by the Superintendent of Police, Yamuna Nagar vide his letter No.29410-11 dated 14.07.2006 to the office of respondent No.2 – DGP Haryana, Panchkula. The approval for the same was also granted by the Authorities and process of recruitment was initiated by the District Police. The physical measurements were also claimed to have been taken and verified from the office, which stands corroborated by various endorsements by the office of the Inspector General of Police, Ambala Range, Ambala. He contends that notwithstanding the initiation of formalities for compassionate appointment having been initiated by the respondent-Authorities, however, the office of DGP, Haryana issued a letter dated 10.09.2006 directing the mother of the petitioner to give her consent as to whether she wishes to receive the *ex-gratia* amount instead of appointment of the petitioner- son of the deceased on compassionate grounds. It is vehemently argued that the mother of the petitioner was pressurized to receive the *ex-gratia* financial assistance which she accepted under protest and as such, no appointment letter was issued to the petitioner. It is contended that notwithstanding the petitioner being eligible for appointment on compassionate grounds, however, the family of the deceased was coerced to accept the *ex-gratia* financial assistance in disregard to the scheme/policy/instructions issued by the respondents-State from time to time for granting compassionate appointment under the *ex-gratia* scheme so as to

assist the families to tide over the financial crisis that emanates as a result of death of the sole bread earner.

He submits that the petitioner eventually served a legal notice to the respondents on 04.10.2018, whereupon a reply was sent by the respondents on 22.02.2019 declining the claim of the petitioner. The petitioner accordingly approached this Court vide CWP No.24858 of 2019 titled as 'Shiv Kumar Vs. State of Haryana and others' which was disposed of vide order dated 20.11.2023 directing the respondents to take a decision on the claim raised by the petitioner in a time bound manner and preferably within a period of 08 weeks of the date of receipt of the said order.

He further submits that in compliance to the order dated 20.11.2023 passed by this Court, the respondents again declined the claim of the petitioner for compassionate appointment vide order dated 15.12.2023. Learned counsel for the petitioner has vehemently argued that respondent-Department has failed to exercise its discretion and has acted arbitrarily.

He further submitted that during the period from 2019 to 2022, the benefit of compassionate appointment had been given to 232 persons and from January 2006 to August 2006, 85 Constable/police personnel had been appointed under the *ex-gratia* scheme. Thus the respondents had the posts available at all the times, however, for inexplicable and discriminatory reasons, the benefit of compassionate appointment was not granted to the petitioner. He contends that the said action of the respondents is illegal as it fails to take into consideration the applicable policy at the time of death of father of the petitioner, which is being held to be the relevant policy for consideration of claims under the compassionate appointment scheme in

view of the **judgment dated 20.04.2012** passed by this Court in the matter of **Krishna Kumari Vs. State of Haryana and others**, bearing **CWP No.4303 of 2009**.

I have heard the learned counsel for the petitioner and have gone through the documents and record available on case file as well as the judgment of **Krishna Kumari (Supra)** with his able assistance.

It is evident from the above that the Superintendent of Police, Yamuna Nagar, while taking a decision on the representation submitted by the petitioner for seeking compassionate appointment, has assigned the following reasons for declining the claim of the petitioner: -

“The matter was put up before the undersigned and immediately the relevant record was called for. On perusal of relevant record, it was found that father of the petitioner Dharam Singh was appointed in Police Department as constable on 17.02.1979 and served upto 13.06.2006, He expired in roadside accident on 13.06.2006. After the death of Head Constable Dharam Singh his widow Smt. Premo Devi submitted an application stating therein that her son i.e. the petitioner namely Shiv Kumar aged 20 years be appointed as Constable in Haryana Police. The application was forwarded to the office of Inspector General of Police, Ambala Range, Ambala Cantt and the Director General of Police, Haryana on dated 14.07.2007 for taking further necessary action. Thereafter, on receiving the order dated 27.07.2006, physical measurement of petitioner Shiv Kumar was taken by the office of Superintendent of Police Yamunanagar and his physical measurement was forwarded to the office of Director General of Police, Haryana as well as to the office of inspector General of Police, Ambala Range, Ambala Cantt on dated 07.08.2006. In the meantime ex- gratia rules were changed to the new ex-gratia

Rule 2006. Accordingly, the office of the Director General of Police, Haryana issued a letter dated 24.08.2006 seeking the option whether the dependents of deceased Late HC Dharam Singh want to opt for lump-sum ex-gratia grant provided in Rules 2003/2005 or the Monthly Financial Assistance as provided under the new rules 2006. On which, Smt. Premo Devi i.e. mother of the petitioner submitted her application, changing her option and opted for Monthly Financial Assistance under the new rules-2006. Consequently, the office of the Director General of Police, Haryana allowed her request Monthly Financial Assistance to the family of deceased Sh. Dharam Singh, which Premo Devi (widow of Dharam Singh) drew continuously from 01.08.2006 to 31.07.2013. Thereafter the family (Smt. Premo Devi i.e. mother of petitioner) is drawing family pension. As such, the relevant relief permissible under rules has already been granted to the family of deceased Sh. Dharam Singh. It is also clarified that there was no provision of granting Govt. Job in new ex-gratia rules-2006.

Keeping in view the principle of natural justice, the petitioner Shiv Kumar son of Late HC Dharam Singh was personally heard by the undersigned in his office on 12.12.2023. The record has been perused and keeping in view the fact that after the death of HC Dharam Singh on 13.06.2006 his widow (Premo Devi) had exercised option of seeking Monthly Financial assistance, which she drew from 01.08.2006 to 31.07.2013 and thereafter, she has been continuously drawing family pension. The petitioner is not entitled for appointment on the post of Constable on ex-gratia/compassionate ground, as all the relevant permissible relief admissible to family of the deceased has been granted. Further, his mother Smt. Premo Devi had exercised option of Monthly Financial Assistance, which she has already drawn upto 31.07.2013 and thereafter is drawing family pension. Hence, they have no right to avail

appointment for constable on ex-gratia/compassionate ground. Thus, the claim/representation of the petitioner is devoid of merits and same deserves to be filed.”

It is noteworthy that even though the Superintendent of Police, Yamuna Nagar has specifically referred that the benefit of *ex-gratia* compensation was granted to the family of the petitioner on account of change in the *ex-gratia* rules and the financial assistance was released to the mother of the petitioner, however, the factor which weighs upon this Court for not interfering with the order passed by the Superintendent of Police, Yamuna Nagar is that the benefit of financial assistance had been released in the favour of mother of the petitioner in August 2006 and she had been availing the said benefit since then. She is stated to have raised the claim for the first time in the year 2018 by way of sending a notice and the representation was filed for the first time in the year 2019. There was thus a delay of more than 12 years in approaching the Court for seeking the benefit of compassionate appointment. There was no impediment to the petitioner or his mother to have approached this Court at the first available opportunity; but instead, the mother of the petitioner chose to continue receiving the benefit of financial assistance that had been granted to her by the respondent-Authorities. Thus, even though there is some merit in the claim of the petitioner that the introduction of a new *ex-gratia* financial scheme of 2006 could not have been the relevant factor for declining the benefit of compassionate appointment to the petitioner and his claim ought to have been considered under the erstwhile Rules of 2003, however, the inordinate delay on the part of the petitioner in espousing the grievance and

approaching the Court of law after a period of nearly 12 years, the reopening of the said case would be improper. The present writ petition would thus be barred by delay and laches.

For the foregoing reasons, the present petition is dismissed *in limine*.

**(VINOD S. BHARDWAJ)
JUDGE**

APRIL 07, 2025.

Rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No