
(2001) 03 P&H CK 0139

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 3623 of 2001

Pawan Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: March 13, 2001

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: V.S. Aggarwal, J; S.S. Sudhalkar, J

Bench: Division Bench

Advocate: Mr. Jogbir Malik, for Mr. Anil Rathee, for the Appellant;

Judgement

V.S. Aggarwal, J.

Petitioner Pawan Kumar seeks quashing of the order dated 22.4.1998, copy of which is Annexure P-8 purported to have been passed by the Director, Primary Education Haryana, Chandigarh. He further seeks a mandamus to direct the respondents to appoint him to the post of clerk in the Education Department.

2. The facts alleged are that the father of the petitioner Sh. Ranbir Singh was a J.B.T. teacher in Government High School, Silani, District Jhajjar. Sh. Ranbir Singh died on 03-02-1992 in harness. The petitioner was born on 07-07-1980. At the time when his father died, he was only 11 years and 7 months old. The petitioner claims that at the time of death of his father, his mother approached the respondent department for the service of the petitioner. She was assured that the petitioner shall be appointed on attaining the age of majority. No writing was given. When the petitioner attained majority, his mother approached the department but the claim of the petitioner had been rejected. The petitioner contended that since he could only be employed on attaining the age of majority, therefore, he has a right to be considered of being appointed on the basis of the instructions issued by the Haryana Government dated 8.5.1995. Hence, the present writ petition.

3. After hearing learned counsel for the petitioner, we are of the considered opinion that the petition is totally devoid of any merit and necessarily has to fail.

4. On behalf of the petitioner, reliance has strongly been placed on the instructions purported to have been issued by the Government of Haryana dated 08-05-1995, copy of which is Annexure P-1, and on the strength of the same it has been alleged that the petitioner had a right to be considered for compassionate appointment on attaining the age of majority.

5. We know from the decision of the Supreme Court in the case of [Umesh Kumar Nagpal Vs. State of Haryana and Others](#), :that compassionate appointments are given on humanitarian consideration taking into account the fact that unless some source of livelihood is provided to the family of the deceased employee they cannot meet the both ends. The object was to give a member of such family a post much less a post held by the deceased. It was further held that the person concerned does not have a vested right and compassionate appointment cannot be claimed after a considerable lapse of time. The Supreme Court held as under :-

"For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner. The compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

6. The same question was again considered by the Supreme Court in the case of Sanjay Kumar v. State of Bihar and others 2000(4) SCT 323 (SC) : AIR SCW 3082. The Supreme Court held that vacancy cannot be reserved for a person till he attains majority. Such a reservation would be against the intent behind compassionate appointment. Para Nos. 3 and 4 of the cited judgment read as under :-

"3. We are unable to agree with the submissions of the learned senior counsel for the petitioner. This court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in Director of Education v. Pushpendra Kumar (supra). It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.88, the petitioner was a minor and was not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there is some specific provision. The very basis of compassionate appointment is to see that the family gets immediate relief.

4. We are, therefore, unable to agree with the view expressed in Chandra Bhushan's case."

In the present case in hand, the father of the petitioner unfortunately expired in the year 1992. Since then nine years had elapsed. At this stage, keeping in view the ratio decidendi of the decisions rendered by the Supreme Court in Umesh Kumar Nagpal's case (supra) and Sanjay Kumar's case (supra), we have no hesitation in concluding that the petitioner cannot claim compassionate appointment as of right. A post cannot be reserved for a long time. The very purpose for which compassionate appointments are granted would be frustrated. After all the petitioner or any other person must compete with others to look forward an assured government job.

Consequently, we find that there is no merit in the writ petition. It is dismissed in limine.

7. Writ petition dismissed.