**LPA-2690-2024 (O&M)**

Sr. No.127
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
LPA-2690-2024 (O&M)
Date of Decision : 10.12.2024

Sobia Mujib

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**HON'BLE MS. JUSTICE LAPITA BANERJI**

Present : Mr.Gopal Singh Nahel, Advocate,
for the appellant.

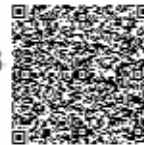
Mr. A.S.Khara, Sr. DAG, Punjab.

ANUPINDER SINGH GREWAL, J. (Oral)

The appellant has challenged order of the Single Judge dated 26.09.2024 passed in CWP No.24865-2024 whereby her writ petition claiming appointment on compassionate grounds has been rejected.

2. Learned counsel for the appellant submits that the father of the appellant who was serving as Supervisor in the Market Committee, Ahmedgarh had expired and brother of the appellant had been given a job on compassionate grounds. However, the brother of the appellant was suffering from mental illness and could not perform the duties and his services were terminated. He further submits that as one member of the family is entitled to compassionate appointment thus, after the termination of the services of brother of the appellant, the appellant herself was eligible and ought to have been appointed on compassionate basis especially when the family of the appellant is in financial difficulty and struggling to meet both the ends.

3. Heard.

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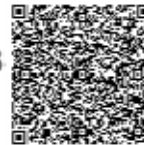
4. The father of the appellant who was working as Supervisor in the Market Committee, Ahmedgarh had unfortunately expired on 22.03.2012. The brother of the appellant, namely, Kasif Khan was appointed as Peon in the Market Committee on 09.04.2013. He had absented from duty on several occasions and after issuance of several show-cause-notices, he was declared absent from duty with effect from 01.04.2014. Subsequently, charge-sheet was issued and after holding departmental inquiry, his services were terminated on 30.11.2016. The brother of the appellant had preferred an appeal before the Appellate Authority which was allowed and matter was remanded to the Administrator and the Administrator had passed an order on 21.05.2018 whereby the services of brother of the appellant were terminated with effect from 01.04.2014. The appellant after the termination of the services of her brother had sought appointment on compassionate grounds which was rejected by the District Mandi Officer on 28.07.2022 by relying on instructions dated 21.11.2002. The order dated 28.07.2002 is reproduced hereunder:-

“ Regarding the aforementioned subject/reference, it is informed that upon the death of Shri Muzib Rehman Khan, Mandi Supervisor, Office of Market Committee, Ahmedgarh, the Market Committee, Ahmedgarh has already given compassionate appointment to his son/your elder brother Shri Kasif Ali Khan.

As per para No.15(b) of letter No.11/105/98/4PP/II/14420, dated 21.11.2002 issued by Punjab Government, personnel Department (Personnel Policy-II Branch) “An appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on consideration of compassion should invariably be rejected.”

In accordance with the aforesaid instructions issued by the Punjab Government, your application for compassionate appointment in place of your elder brother Shri Kasif Ali Khan is not liable to be considered. Hence, the application filed by you is being consigned to record.

*Sd/- District Mandi Officer,
Sangrur.”*



5. The Single Bench after noticing that brother of the appellant had been given compassionate appointment and the appointment is not transferrable to any other family member subsequently had dismissed the writ petition.

6. It is settled law that compassionate appointment is an exception to the general rule of making appointments in conformity with the Articles 14 and 16 of the Constitution of India. A reference can be made to the judgment of the Supreme Court in **The State of West Bengal Vs. Debabrata Tiwari and others, 2023 AIR Supreme Court 1467** wherein the Supreme Court had reiterated the law laid down in '**Umesh Kumar Nagpal Vs. State of Haryana' 1994 (4) SCC 138** and observed as under:-

“Policy of Compassionate Appointment: The Rationale:

7. *The majesty of death is that it is a great leveler for, it makes no distinction between the young and the old or the rich and the poor. Death being as a consequence of birth at some point of time is inevitable for every being. Thus, while death is certain, its timing is uncertain. Further, a deceased employee does not always leave behind valuable assets; he may at times leave behind poverty to be faced by the immediate members of his family. Therefore, what should be done to ensure that death of an individual does not mean economic death for his family? The State's obligation in this regard, confined to its employees who die in harness, has given rise to schemes and rules providing for compassionate appointment of an eligible member of his family as an instance of providing immediate succor to such a family. Support for such a provision has been derived from the provisions of Part IV of the Constitution of India i.e., Article 39 of the Directive Principles of State Policy.*

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ii ***In Umesh Kumar Nagpal Vs. State of Haryana, (1994) 4 SCC 138, this Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependents of the deceased who is eligible for such employment. That mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that, but for the provision of employment, the family will not be able***



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to meet the crisis, that a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. That 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, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.”

7. As the brother of the appellant had been granted compassionate appointment, it is not open to the appellant to seek appointment on compassionate grounds after termination of his brother’s services. The object is only to tide over the immediate financial crisis which engulfs the family on the death of the sole breadwinner.
8. We do not find any merit in the contention of the learned counsel for the appellant that brother of the appellant was suffering from psychotic illness as no supporting document has been annexed except a medical prescription from private doctor. In any event, once a family member has availed the benefit of compassionate appointment, the same cannot be granted to another family member after the service of that family member had been terminated.
9. Consequently, we do not find any illegality in the order of the Single Judge which would warrant interference in letters patent appeal.
10. Letters Patent Appeal stands dismissed accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

December 10, 2024

vandana

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