CNR No: PHHC011699682024
2026:PHHC:189871

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 **CWP-33034-2024 (O&M)**
Date of Decision:- 13.10.2026

Rahul Khan … Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Dr. Mohammad Arshad, Advocate and
Mr. Mohd. Aadil Hussain, Advocate
for the petitioner.

Mr. Priyavrat Parashar, Asstt. A.G., Haryana.

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NIDHI GUPTA, J.

Present Civil Writ Petition under Articles 226/227 of the Constitution of India has been filed by the petitioner for issuance of an appropriate writ, order or direction; especially issue a writ of mandamus directing the respondents to consider the petitioner's claim for compassionate appointment afresh, without being influenced by the alleged delay in filing the application dated 02.09.2022 (Annexure P-2); and declare that the alleged defect of delay in submitting the application for compassionate appointment under Rule 8(a) of the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019, is curable and does not warrant

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outright rejection of the claim; and further direct the respondents to process the petitioner's application for compassionate appointment, taking into account the exceptional circumstances, including the petitioner's minor age at the time of filing and disruptions caused by the COVID-19 pandemic as the Hon'ble Court has already held in ***Parmeshwari and Another versus State of Haryana and Others vide CWP 12705 of 1999***, decided on 06.05.2015 (Annexure P-7) that the delay due to minority should not bar the petitioner’s entitlement to compassionate appointment.

2. It is *inter alia* submitted by ld. counsel for the petitioner that deceased government employee/father of the petitioner had been appointed as PTI Teacher in the respondent No.5-Govt. Middle School on 02.11.2000. Father of the petitioner had passed away on 20.01.2020 as evident from the Death Certificate dated 31.01.2020 (Annexure P-1).

3. Petitioner was minor at the time of death of his father. Petitioner had attained majority on 30.04.2022 and had passed Class 12th and completed Diploma in Computer Applications. Accordingly, family of the deceased had submitted application dated 02.09.2022 (Annexure P-2) to the respondents for compassionate appointment. Respondent No.5 had processed and forwarded the application of the petitioner to the Accountant General, Haryana supported by relevant documents of the petitioner.

4. However, application of the petitioner has been rejected by the respondent No.4 vide impugned order dated 28.12.2022 (Annexure P-4) on the

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ground that petitioner had submitted application for compassionate appointment beyond the prescribed six-month period as required vide Notification dated 02.08.2019 (Annexure P-8) issued by the Haryana Government.

5. Accordingly, instead, family of the deceased was granted Compassionate Financial Assistance of Rs.1 Lakh on 07.12.2022 (Annexure P-3), almost three years after the death of the government employee.

6. Ld. counsel submits that reason given by respondents for rejecting case of the petitioner for compassionate appointment is untenable as it is not disputed that on date of death of the government employee, petitioner was a minor. Further delay has occurred due to Covid period. Consequently, application for compassionate appointment could not be filed within the stipulated period.

7. Keeping in view the above facts, respondent No.4 had referred the matter to respondent No.2 vide his letter dated 02.03.2023 (Annexure P-5) explaining that date of birth of petitioner was 30.04.2004 and he was a minor at the time of death of his father; and due to Covid he could not file the application within period of six months. Thus, delay in filing application was unavoidable.

8. Ld. counsel argues that moreover, it is a welfare legislation and therefore case of the petitioner deserves to be considered sympathetically without applying hyper-technical approach. In this regard, petitioner had also

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made a representation dated 07.11.2023 (Annexure P-6). However, no response has been received till date.

9. It is contended that therefore delay in submission was not attributable to the petitioner or his family. Accordingly, prays that the present writ petition be allowed.

10. *Per contra*, ld. State counsel has vehemently objected to submissions of the petitioner and has referred to a three-Judge Bench judgment of the Hon'ble Supreme Court in ***Tinku vs. State of Haryana (SC): Law Finder Doc Id # 2663957 2025 (3) Apex Court Judgments (SC) 809*** wherein it has been held that:-

> *"16. In the present case, as is apparent from the record, the Appellant attained majority 11 years after the unfortunate death of his father. The claim, thus, has rightly been rejected by the respondent State. The decisions of the High Court vide the impugned judgments rejecting the claim of the Appellant thus, cannot be faulted with.*
>
> *17. The claim of the Appellant for appointment on compassionate grounds having been found to be not sustainable, an aspect that has come to light which requires consideration as has been put forth by the learned Counsel for the Appellant, is with regard to the grant of ex-gratia financial assistance. This is asserted in the light of the fact that the claim of the Appellant was pending consideration for compassionate appointment for long with the respondents, and the same had finally been decided or 28.04.2009 by rejecting the same and that too primarily on the ground that*

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> *the said claim is time barred. It is further stated that in the impugned Order dated 28.04.2009 that there is no provision for providing job under the ex-gratia scheme in the 2006 Rules."*

11. It is submitted by ld. counsel for the State that therefore the Hon'ble Supreme Court has categorically held that irrespective of the minority of the prospective appointee, application for compassionate appointment has to be made within the stipulated period of six months. Accordingly, prays for dismissal of the present writ petition.

12. No other argument is made on behalf of the ld. counsel for the parties. I have heard the ld. counsel and perused the case file and record in detail. I find merit in the submissions advanced on behalf of the petitioner.

13. The respondent has rejected the claim of the petitioner by invoking Rule 8(a) of the Haryana Civil Services (Compassionate Financial Assistance and Appointment) Rules, 2019 *(*hereinafter 'Rules 2019'*)*, which reads as follows: -

> *"8. (a) The family of a deceased/martyred Government employee shall submit an application for compassionate appointment in the prescribed form within six months from the date of death of the Government employee to the Head of Office where the deceased Government employee was on the rolls at the time of death, for onward submission to the Head of Department for further necessary action."*

14. However, it is not disputed that at the time of death of his father on 20.01.2020, petitioner was a minor. As such, even if petitioner would have submitted any application within the stipulated time, the same could not have

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been entertained and would have been rejected. It is also not disputed that petitioner had attained age of majority only on 30.04.2022; whereafter, petitioner had duly submitted his application for compassionate appointment on 02.09.2022 (Annexure P-2). Yet, by totally ignoring the above facts and without application of mind, application of the petitioner has been rejected by the respondents vide order dated 28.12.2022 (Annexure P-4) on the ground that *'it was mandatory for the dependent of the deceased employee to apply for appointment on compassionate grounds within six months. But the dependent of the deceased employee did not apply for appointment on compassionate grounds within 6 months. Accordingly, he does not become eligible for appointment.'*

15. The above reasoning of the respondents is not tenable in the peculiar facts and circumstances of the present case.

16. Further, no doubt Rule 8(a) of the Rules 2019 (Annexure P-8) stipulates that application for compassionate appointment has to be submitted within six months from date of death of the government employee. However, pari materia/ similar provision 15(e) of the very same Rules 2019, stipulates as follows:

> *"15(e) Where the children have become orphans upon the demise of the Government employee, the claim of compassionate appointment of such orphans shall remain alive till one child of the deceased has attained the age of majority/minimum age for entry into Government service."*

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17. No reason is given as to why claim of dependents such as the petitioner is also not kept alive till she/he attains age of majority. When relaxation is given in case of one class of dependents/orphans, then same ought to be given in another class of dependents, such as the petitioner as well to save from the vice of discrimination.

18. This is especially so as the stated objective and purpose of the Rules 2019 (Annexure P-8) is *"to grant compassionate financial assistance or appointment to the family of Government employee who dies or disappears while in service, consequently to relieve the family of Government employee concerned from financial distress."*

19. In the present case, petitioner has clearly pleaded that after the death of his father, family of the petitioner has been left destitute without a source of stable income, causing severe financial hardship. It has been pointed out that even compassionate financial assistance was released to the family almost three years after the death of the government employee, which further highlights the family's prolonged financial distress. In such a situation, rejection of the application of the petitioner is contrary to the very objective of the Rules.

20. It is further evident from the above noted facts that no deliberate delay has been caused on account of the petitioner/family of the deceased. In such a situation, the present being a welfare legislation, respondents should have taken a more sympathetic view of the matter. Courts have consistently held that in cases such as the present one where delay is due to unavoidable

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circumstances, the provision cannot be read stringently and strictly, particularly when the dependent was a minor at the time of the employee's death. Reference is made to judgment rendered by this Court in ***CWP-5277-2020*** titled as ***Ashok Kumar vs. State of Haryana and another*** decided on 11.07.2022 wherein it is held that:-.

> *"6. Perusal of the policy contained at Annexure P-11 reveals that in case of a minor, on attaining his/her age of 17 years, department would have to send complete proposal to the Government within a period of 6 months for being considered the same by the competent authority. It appears that the Principal of the School had favourably recommended the case of the petitioner in terms thereof, when the petitioner approached to seek assistance upon attaining the age of 17 years. The proposal was forwarded to the competent authority, however, vide impugned order, the same has been cryptically rejected stating that the same is time barred since it was not submitted within 3 years of the death of an employee.*
>
> *7. Impugned rejection flies in the face of the applicable policy, relevant whereof is extracted here in below:*
>
> > *i) It is mentioned in the instructions that the person who is to be provided with the benefit/privilege of giving job/service under grant for privileged person policy, if he is minor, even though the dependents of the deceased would have to submit/send an application to the Government for consideration/decision within a period of 3 years from the death of the deceased as regards giving/granting*

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> *the said person a job/service. But it is not clarified in the instructions that to the effect that after the death of the deceased, whether only application would have to be submitted/send to the Government within a period of 3 years as regards the dependent who would have to be given job/service under grant for privileged person policy or job/service would also have to be given/granted to him within a period of 3 years. The Government has taken decision that in such type of situation, after the death of the deceased, his dependents would have to submit an application to the Government for giving job/service to the minor dependent(s) within a period of 3 years of the death of the deceased as per the prevalent/current instructions, but when the said minor attains age of 17 years, then at the same time the department would have to send complete proposal as regards his job/service to the Government and the said proposal shall have to be reached/arrived to the Government at any cost within a period of 6 months after attaining the age of 17 years by the said minor, otherwise, the Government should not consider such type of matters at any cost or in any circumstances and the department should be responsible for the same."*
>
> *Having perused the policy, ibid, I see no reason why the petitioner's case be not processed in accordance thereof provided he is found entitled to the same, in accordance with law."*

21. Reliance of the respondent-State upon judgment in case of ***Tinku*** (supra) is misplaced as the same is distinguishable on facts; inasmuch as in the said case the dependent therein had attained majority 11 years after the death of his father/government employee; whereas in the present case petitioner turned major only two years after death of his father. Thus, facts of the two

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cases are materially different and said judgment cannot be applied to the present case.

22. Accordingly, present writ petition is ***allowed***. The respondents are directed to consider case of the petitioner for compassionate appointment as per his entitlement in accordance with law.

23. Pending application(s), if any, also stands disposed of.

(NIDHI GUPTA)
JUDGE

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Whether speaking /reasoned **Yes / No**
Whether Reportable **Yes / No**

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