



2025:HHC:4

2025:HHC:42171

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.14833 of 2024

Date of Decision: 28.11.2025

Sh. Baldev Singh		Petitioner
	Versus	
The HPSEBL and Another		Respondents

*Coram:****Hon'ble Mr. Justice Sandeep Sharma, Judge.****Whether approved for reporting? ¹*

For the Petitioner: Ms. Nitika Khidtta, Advocate.**For the Respondents:** Mr. Anil Kumar, Advocate.

Sandeep Sharma, Judge (oral):

Petitioner herein is aggrieved of order dated 24.09.2024 (Annexure P-10) passed by Executive Director (Personnel), HPSEBL, Shimla, whereby representation filed by the petitioner in terms of order dated 24.09.2024 passed by the Coordinate Bench of this Court in Execution Petition No.820 of 2024, titled as ***Baldev Singh Vs. HPSEBL and Another***, came to be rejected on the ground that he is not entitled to compassionate appointment for his having not passed middle and matriculation examination from the schools and institutions situated in the State of Himachal Pradesh.

2. Precisely, the facts of the case, as emerge from the pleadings adduced on record by the respective parties are that petitioner's father, who was working as T-Mate in the respondent-Board, died in harness on 27.03.2017. Petitioner herein being legal

¹Whether the reporters of the local papers may be allowed to see the judgment?



representative of aforesaid deceased employee applied for compassionate appointment in the year 2017 itself. Though petitioner had applied employment against Class-III post, but he was called upon to exercise option for Class-IV employment, which option was duly exercised by the petitioner, however, fact remains that application filed by the petitioner in the year 2017 remained pending consideration before the competent authority for quite long, as a result thereof, he had to apply for certain documents under the Right to Information Act. Documents made available to the petitioner under the Right to Information Act on 10.05.2023 (Annexure P-7) revealed that petitioner's application was not pursued/considered on the ground that he is not a *bona fide* Himachali. In the afore background, petitioner approached this Court by way of CWP No.8986 of 2023 (Annexure P-8). This Court, having taken note of judgment passed by the Hon'ble Principal Division Bench of this Court in CWP No.4304 of 2023, titled as ***Sandeep Kaur Vs. State of H.P. and Others***, wherein action of respondent-State in denying the appointment on compassionate grounds on the ground of "*bona fide* Himachali" came to be declared violative of Article 16(2) of the Constitution of India, directed the respondents to consider the case of the petitioner afresh taking note of observations made in the judgment passed in *Sandeep Kaur* (supra).



3. In the afore background, petitioner herein made representation dated 28.03.2024 (Annexure P-9) thereby submitting judgment dated 11.03.2024 passed by this Court with further request to consider his case in light of *Sandeep Kaur* (supra). Interestingly, respondents, vide judgment dated 11.03.2024 passed by this Court, though were directed to consider the case of the petitioner afresh, but the same was rejected on altogether different ground vide impugned order dated 24.09.2024 (Annexure P-10). Initially vide order dated 10.05.2023, case of the petitioner for compassionate appointment was rejected on the ground that he is not a *bona fide* Himachali, but since such ground was held to be bad by the Division Bench of this Court in *Sandeep Kaur* (supra), respondents again rejected the case of the petitioner on the ground that since he has not passed middle and matriculation examination from the schools and institutions situated in the State of Himachal Pradesh, he is not qualified to be appointed against the post in question in terms of provisions contained under the Himachal Pradesh Eligibility for Appointment to Class-III and Class-IV Posts Rules, 2019 (**for short, '2019 Rules'**). In the afore background, petitioner has approached this Court in the instant proceedings, praying therein for following main reliefs:

“(i) That the impugned order dated 24.09.2024 (Annexure P-10) may kindly be quashed and set aside.



(ii) That the respondents may kindly be directed to consider the case of the petitioner and give appointment to the petitioner as class-III and if not available, then as class-IV immediately.”

4. In nutshell, grouse of the petitioner, as has been highlighted in the petition and further canvassed by Ms. Khidtta, learned counsel representing the petitioner is that though ground raised by the respondents for rejecting the rightful claim of the petitioner of his having not passed middle and matriculation examination from the schools and institutions situated in the State of Himachal Pradesh was never taken at first instance, rather at that relevant time, case of the petitioner was rejected on the ground that he is not a *bona fide* Himachali. Since aforesaid ground of not being *bona fide* Himachali was found to be bad in law by the Division Bench of this Court in *Sandeep Kaur* (supra), now respondents have attempted to take a ground, which is not at all tenable in the case at hand for the reason that case of the petitioner for compassionate appointment is required to be considered in terms of Policy formulated by the Government of Himachal Pradesh for offering compassionate appointment, wherein there is no condition of passing middle and matriculation examination from the schools and institutions situated in the State of Himachal Pradesh. She submitted that provisions contained in the 2019 Rules, cannot be made applicable in the case of the petitioner, which otherwise had come in existence after making



application at the behest of the petitioner for appointment on compassionate grounds in the year 2017.

5. To the contrary, Mr. Anil Kumar, learned counsel representing the respondents, while justifying the impugned action of the respondents submitted that though Policy of compassionate appointment formulated by the Government of Himachal Pradesh, which has been adopted by the respondent-Board, does not provide that person desirous of getting compassionate appointment should have passed middle or matriculation examination from the schools or institutions situated in the State of Himachal Pradesh, but once 2019 Rules clearly provides that appointment against Class-III and Class-IV posts shall be given only to those persons, who have passed middle or matriculation examination from the schools or institutions situated in the State of Himachal Pradesh, no illegality can be said to have been committed by the respondents while passing the impugned order. He further submitted that moreover, 2019 Rules have not been challenged in the instant proceedings.

6. Having heard learned counsel representing the parties and perused material available on record, this Court has no hesitation to conclude that from day one of making application at the behest of petitioner, an attempt has been made by the respondents to thwart the claim of the petitioner for compassionate appointment, that too on



frivolous grounds. At first instance, claim of the petitioner was rejected on the ground that he is not a *bona fide* Himachali, but since aforesaid ground was held to be bad in law by the Division Bench of this Court in *Sandeep Kaur* (supra), respondents devised a new method to ensure that petitioner does not get compassionate appointment by passing order that he has not passed middle or matriculation examination from the schools or institutions situated in the State of Himachal Pradesh. Needless to say, prayer, if any, made on behalf of the petitioner for compassionate appointment is to be governed by the Policy for compassionate appointment formulated by the Government of Himachal Pradesh.

7. Mr. Anil Kumar, learned counsel representing the respondents, has not been able to dispute that Policy for compassionate appointment formulated by the Government of Himachal Pradesh, under which case of the petitioner has been considered, nowhere provides that person seeking compassionate appointment is necessarily required to have passed middle or matriculation examination from the schools and institutions situated in the State of Himachal Pradesh, rather in that regard, reliance has been placed upon 2019 Rules, which provides that person desirous of getting appointment against Class-III and Class-IV post should have passed middle and matriculation examination from the schools and



institutions situated in the State of Himachal Pradesh. No doubt, aforesaid Rules suggest, as has been noticed hereinabove, but once Hon'ble Division Bench of this Court in *Sandeep Kaur* (supra) has held that condition of "*bona fide* Himachali" is violative of Article 16(2) of the Constitution of India, as a result thereof, *non-bona fide* Himachalis, who may be residing in other States, are also eligible to apply for compassionate appointment. Otherwise also, it is not necessary that every *bona fide* Himachalis necessarily reside in the State of Himachal Pradesh, rather they, on account of occupation, may be working in other States and in that situation, are compelled to provide education to their children from outside the State. Similarly, a person, who otherwise is a *non-bona fide* Himachali, is entitled to apply for compassionate appointment, as has been held in *Sandeep Kaur* (supra) and as such, cannot be ousted from seeking compassionate appointment in the State of Himachal Pradesh on the ground that he or she has not passed middle or matriculation examination from the school or institution located in Himachal Pradesh.

8. Leaving everything aside, this Court is of the view that once ground of petitioner's having not passed middle and matriculation examination from the school and institution situated in the State of Himachal Pradesh was not taken at first instance, rather



at that juncture application of the petitioner was rejected on the ground that he is not a *bona fide* Himachali, there was otherwise no occasion for respondents to reject the case of the petitioner on altogether new ground. Petitioner has been running from pillar-to-post since 2017 for compassionate appointment, which in terms of Policy, he could always seek in lieu of death of his father, but for wholly unjustifiable reasons, his claim is being denied on frivolous grounds. Very purpose and object of providing compassionate appointment is to save the family of the deceased employee from indigence, but in the case at hand, petitioner, who has been otherwise successful to explain that he qualifies all the parameters laid down in the Policy for compassionate ground is being denied his rightful claim.

9. Consequently, in view of the above, present petition is allowed and impugned order dated 24.09.2024 (Annexure P-10) is quashed and set aside. Respondents are directed to provide compassionate appointment to the petitioner forthwith.

The present petition is disposed of in the above terms, so also the pending miscellaneous application(s), if any.

**(Sandeep Sharma),
Judge**

November 28, 2025
(Rajeev Raturi)