



CWP-25124-2025

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

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**CWP-25124-2025 (O&M)
Date of decision: 28.08.2025**

Rohit

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pankaj Garg, Advocate
and Mr. Chahat Goyal, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab
for respondents No.1 and 2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the speaking order dated 23.04.2024 (Annexure P-13). Further a writ of *mandamus* has been sought, directing the respondents to give appointment to the petitioner on the post of Sweeper or any other post under Punjab Education Department as per the Policy for appointment on compassionate grounds dated 21.11.2002 (Annexure P-3) and further to direct the respondents to release the retirement benefits like gratuity, leave encashment, etc. along with interest @ 12% to the petitioner.

2. Learned counsel for the petitioner, *inter alia*, contends that a speaking order dated 23.04.2024 (Annexure P-13) was passed



rejecting the claim of the petitioner on compassionate grounds on the ground that the mother of the petitioner is receiving family pension. The petitioner's father was employed as Sweeper in Municipal Corporation at Pathankot and he died in harness on 14.01.2017. The father of the petitioner was survived by his widow and two sons, including the petitioner. The petitioner being dependent upon his father, has applied for compassionate appointment on 02.08.2022 for the post of Sweeper in terms of the letter No.11/05/98-4PP2/14420 dated 21.11.2002 issued by Government of Punjab. The petitioner's mother and brother have also submitted an affidavit in self-declaration that they have no objection in case the petitioner is appointed as Safai Sewak. The petitioner has approached this Court by filing a petition i.e. CWP No.27199 of 2023 and in the meantime, during the pendency of the said writ petition, the impugned speaking order was passed on 23.04.2024 (Annexure P-13). Learned counsel for the petitioner further submits that the retiral benefits like leave encashment, gratuity, etc. have not been paid by the respondent/Corporation till date. Further in similar circumstances, an employee namely Naseem Matu, had died in harness on duty and although the widow of deceased Nazeem Matu, was receiving monthly pension, his son Simu has been granted appointment on compassionate grounds, however, different yardsticks have been adopted by the respondent/Corporation in the case of the petitioner. As such, the act and conduct of the respondent/Corporation is arbitrary and violative of Article 14 of the Constitution of India.



3. Learned counsel for the petitioner has relied upon the judgment ***Asha Rani vs State of Punjab, 2015(4) SCT 250*** and submits that hyper-technical and unreasonable restrictions on the right of such person cannot be applied by denying compassionate appointment. Even this Court in **CWP No.11533 of 2013**, titled as ***Veena Kumari vs State of Punjab and others***, decided on **11.05.2016**, has issued directions to consider the claim for appointment on compassionate grounds wherein the husband had passed away before his regularization. Moreover, he places reliance on the judgment of this Court in ***Manpreet Singh vs The Punjab State Power Corporation Limited and others, 2024 NCPHHC 11798*** and the judgment of ***Raghibiro and another vs Canara Bank and others*** passed in **CWP No. 2591 of 2020**, decided on **08.04.2022**.

4. Mr. Vikas Arora, DAG, Punjab, who appears on advance notice, could not controvert that the grounds on which the petitioner's claim was rejected are untenable in law and further the family pension received by the petitioner's mother cannot be considered as part of the family income for assessing eligibility for compassionate appointment, in view of the binding judgments relied upon by the petitioner. He further submits that the petitioner's case will be reconsidered afresh in accordance with law.

5. The exact stand of respondent No.3 is clearly discernible from the reasoning given in the impugned order dated 23.04.2024 (Annexure P-13). As such, the present writ petition is decided in limine in view of the settled law without issuing notice to respondent No.3, in



order to save judicial time of the Court and also the litigation costs of respondent No.3. The perusal of the record indicates that the rejection of the petitioner's claim, solely on the ground of receipt of family pension by the petitioner's mother, is contrary to the settled legal position as well as departmental policy. This Court in ***Manpreet Singh's case (supra)*** has held that mere presence of an earning member cannot be a valid ground to deny compassionate appointment if the family is facing financial hardship. The operative part of the said judgment reads as follows:-

“9. Further more, a bare perusal of the Punjab Government Instructions re: Compassionate Appointments dated 21.11.2002 (Annexure P-10) and dated 18.07.2005 (Annexure P-11) in para 6 (a) provides that “in deserving cases where there is already an earning member may be considered for compassionate appointment with prior approval of the Secretary of the Department concerned, who before approving such appointment will satisfy himself that grant of compassionate appointment is justified having regard to number of dependant, assets and liabilities left by the Government servant income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government Servant and whether he should not be a source of support to other members of the family.”

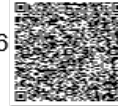
In this view of the matter, at least the case of the petitioner, where neither any member of his family was in Government Service nor there was any supporting earning member at the time of death of the deceased employee, could have been sent to the higher authorities of the



department to consider his claim for compassionate appointment, as per Punjab Government Instructions re: Compassionate Appointments dated 18.07.2005 (Annexure P-11), by keeping in view the financial constraints of the bereaved family, which have been elucidated in his affidavit dated 14.03.2019, having regard to number of dependant, assets and liabilities left by the Government Servant as well as income of the earning member. Therefore, the impugned dated 02.08.2018 (Annexure P-12) is cryptic and non-speaking, which is not sustainable in the eyes of law.

10. Keeping in view the above, the case of the petitioner is required to be reconsidered by considering the above said factual position. Consequently, the impugned order dated 02.08.2018 (Annexure P-12) is hereby set-aside being cryptic, non-speaking and albeit unwelcomed in dealing/considering the claim of the petitioner and the matter is remanded back to the respondents to reconsider the case of the petitioner, especially by taking into consideration the financial constraints of the bereaved family and other relevant factors, which have been elucidated in petitioner's affidavit dated 14.03.2019, for compassionate appointment, within a period of three months, from the date of receipt of the certified copy of this order and convey the outcome of the same to the petitioner.”

6. Similarly, this Court in ***Raghibro's case (supra)***, has held that family pension received by the spouse of the deceased employee cannot be treated as part of the family income while assessing indigency for compassionate appointment, as such pension is received in the



spouse's own right and under statutory rules and cannot be factored into income calculations for determining eligibility. The operative part of the said judgment is reproduced hereunder:-

5. *Having heard counsel for the parties, this Court finds substance in the arguments of counsel for the petitioners. A perusal of the initial order passed by the respondents itself show that the claim of petitioner No.2 has been declined on the ground that his mother is getting family pension of more than Rs.12,000/-. Therefore, the essential basis taken up by the respondents for declining the compassionate appointment to petitioner No.2 is; the receipt of family pension by the mother of petitioner No.2. However, the family pension cannot be taken as part of the income while considering the case for compassionate appointment. This has been so held by the Hon'ble Supreme Court in Govind Prakash Verma's case, M. Mahesh Kumar's case, Supriya Suresh Patil @ Sow Supriya Pratik Kadam's case, Shashi Kumar's case and Balbir Kaur's case (supra). Not only that, even this Court has held in its judgment dated 5.4.2022 rendered in CWP No. 21523 of 2018 titled as 'Keshav Sidhu v. Bank of Baroda through its Managing Director, Corporate Office, Mumbai and others' that the family pension received by the spouse of the deceased employee is in his/her own right under the statutory rules and that cannot be taken as an income for determination of the indigent status of the family, as such. Moreover, even the policy of the respondent bank has clarified that the terminal benefits granted to the family member of the deceased employee, including the ones granted under the welfare scheme, shall not be included in the income of the family, while considering the case of an*



applicant for compassionate appointment. Hence, the orders passed by the respondent bank are totally illegal and against their own instructions.

6. *Although counsel for the respondent bank has highlighted the income certificate produced by the petitioners, which shows the family income of the petitioners as Rs.2,11,000/- per annum, to submit that the said income does not indicate that it includes a family pension being received by the mother of petitioner No.2. The said income, as reflected in the certificate is other than the family pension being received by mother of petitioner No.2. However, the record shows otherwise. Petitioner No.2 has clarified the situation in Para No.5 of the writ petition, wherein it has been mentioned that total income of the family is about Rs.18,000/- per month, including the family pension of Rs. 13,585/- being received by his mother. This assertion has not even been disputed by the respondents in the written statement. Out of the said income, an amount of Rs.8000/- is stated to be spent as rent for the house only. Therefore, keeping in view the meager income of the family, seen with the liabilities thereof, it cannot be said that the status of the family is anything above the indigent family, in terms of the compassionate appointment policy of the respondent bank.*

7. In view of the above, the case of the petitioner is required to be reconsidered by the respondent/Corporation in light of the factual matrix. Accordingly, the present petition is allowed. The impugned order dated 23.04.2024 (Annexure P-13) is hereby set aside. The respondent/Corporation is directed to consider the petitioner's case for appointment on compassionate grounds afresh, and if he is found



eligible under the applicable policy and subject to fulfillment of other conditions, the respondent/Corporation shall offer him suitable appointment within a period of three months from the date of receipt of certified copy of this order.

8. Furthermore, the respondent/Corporation is directed to decide the petitioner's claim regarding the release of retiral benefits of his deceased father, including gratuity, leave encashment and other admissible dues and pass a speaking order, after affording an opportunity of hearing to the petitioner, within a period of 03 months from today. Further, the decision taken thereof shall be conveyed to the petitioner. Needless to say, if the petitioner or his family is found entitled to such benefits, the same shall be disbursed without delay.

(HARPREET SINGH BRAR)
JUDGE

28.08.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No