

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 27284/2018

Rakesh Kumar Son Of Late Shri Manak Chand, Aged About 25 Years, Resident Of House No. L-8, Near Shyam Kirana Store, Gokul Colony, Borkhera, Kota, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Law And Justice Secretariat, Jaipur.
2. The Registrar General, High Court Of Judicature For Rajasthan, Jodhpur.
3. District And Sessions Judge, Kota Nayapura, Kota, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Girish Khandelwal
For Respondent(s)	:	Mr. Prateek Kasliwal Ms. Gauri Jasana

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE RAVI CHIRANIA
Order

24/02/2026

1. This writ petition has been filed by the petitioner challenging the order dated 20.03.2018 passed by the respondents whereby application of the petitioner seeking compassionate appointment on account of death of his father, deceased employee Manak Chand, has been rejected due to lack of eligibility for compassionate appointment.
2. Brief facts of the case are that father of the petitioner died on 25.04.2015 while working with the respondents, thereafter the petitioner applied for giving him appointment under The Rajasthan Compassionate Appointment of Dependants of Deceased Government Servants Rules, 1996 (hereinafter to be referred as the 'Rules of 1996'). The application of the petitioner was

dismissed by the respondents vide order dated 20.03.2018 due to lack of eligibility. Hence, this writ petition has been filed by the petitioner challenging the order dated 20.03.2018.

3. Counsel for the petitioner submitted that father of the petitioner solemnized two marriages and the petitioner is the son born out from the wedlock of second wife of the deceased employee. Counsel further submits that the petitioner and his mother also got succession certificate and in all his documents including the government records, the name of his father has been recorded as Late Shri Manak Chand (deceased employee) and prayed for allowing the writ petition.

4. Counsel for the respondents opposed the writ petition and submitted that the petitioner is not entitled for claiming the compassionate appointment in view of Rule 10(1) of the Rules of 1996 as the so-called wife of the deceased-employee has not submitted any application for seeking compassionate appointment on behalf of her son i.e. the petitioner and in support of the arguments, counsel relied upon para Nos.3 & 7 of the reply which reads as under:-

"3. That as such, the Petitioner has failed in proving that he is a legitimate child of Manakchand. Nevertheless, even upon assuming without admitting that Manakchand's marriage with Devi Bai was legitimate and that the Petitioner was a legitimate child, still the Application of the Petitioner for Compassionate appointment sought to be dismissed, since as per the Rules of 1996, an Application for Compassionate Appointment must be made by the living spouse of the deceased employee. The living spouse can either nominate himself/herself or any competent member of the Dependent's family for the purpose of Compassionate Appointment. The

relevant provision of the Rules of 1996 is reproduced hereunder: other

"नियम 10 (1)

"किसी सरकारी कर्मचारी की मृत्यु होने पर उत्तर जीवी पति या पत्नी स्वयं को या किसी अन्य आश्रित को नियुक्ति के लिए आवेदन करेंगे"

It is pertinent to mention that in view of the aforesaid rule, an Application for Compassionate Appointment should have been made by the lawful wife of the Petitioner's mother Devi Bai ie. the surviving wife of the Petitioner's deceased father, in the instant case, that too only if it is proved that Devi Bai Manakchand. In that case, vide an application for Compassionate Appointment; the Petitioner's mother could have nominated the Petitioner for Compassionate Appointment in place of her deceased husband i.e. the Petitioner's deceased father, subsequent to which, the Petitioner's plea for Compassionate Appointment could have been considered. However, the Petitioner, without bothering to peruse the relevant rules concerning Compassionate Appointment, went on to make the application dated 18.05.2015 in his own name, without adhering to the aforesaid procedure. Nevertheless, the answering Respondent No. 3, in regard to the due procedure established by law, was bound to reject the aforesaid Application dated 18.05.2015 by the Petitioner. Thereafter, the Petitioner has now preferred the instant petition while willfully suppressing the aforesaid fact. As such, the instant Petition deserves to be dismissed on this ground alone.

7. That the Petitioner's deceased father was posthumously retired from his post vide the order dated 22.05.2015 passed by the Learned District & Sessions Judge, Kota. As an aftermath of the said order, the retirement benefits in the form of a sum of Rs. 19,59,926/- as the dues of State Life Insurance, General Provident Funds, Gratuity, Paid Leave etc., of the deceased employee are up for being paid to the Petitioner. It is pertinent to mention that the law is settled in this regard; that no Compassionate Appointment is to be allowed to the dependents of the deceased where already retrial benefits have been awarded in favor of

the dependents. The Hon'ble Apex Court in the case of Punjab National Bank v. has held as Ashwani Kumar Taneja (AIR 2004 SC 4155) under:

"...Compassionate appointment should not be given where there is no financial hardship as the purpose and object behind the said appointment is to tide over the sudden financial crisis. While determining and deciding this aspect, the Supreme Court held that retrial benefits have to be taken into consideration and cannot be ignored..."

In view of the same, the contentions of the Petitioner hold no good. The malice and greedy intention of the Petitioner are clearly evident from the very fact that he has suppressed the fact about being up for receiving a massive sum of Rs. 19,59,926/- as the retirement benefits of his deceased father.

Further, relying on the above cited judgment, the Hon'ble Delhi High Court dismissed a writ petition titled Arif Ali v. Delhi Jal Board (2007) 115 FLR 982 seeking Compassionate Appointment, for the reason that the retrial benefits amounting to Rs. 3.54 lacs had already been received by the dependents of the deceased employee, who included the Petitioner and two of his elder brothers.

In the instant case, the retrial benefits in the name of the Petitioner amount to Rs. 19,59,926/-, which is a whopping amount. As such, it is beyond prudence to think that the instant Petitioner could face any financial hardship as has been cited by him. Hence, the instant petition is liable to be dismissed for being based on false premises."

5. Counsel for the respondents further relied upon the judgment passed by the Hon'ble Supreme Court in the matter of Punjab National Bank & Ors. Vs. Ashwini Kumar Taneja reported in AIR 2004 SCC 4155 wherein it has been held as under:-

In State of U.P. and Ors. v. Paras Nath, (1998 (2) SCC 412) it was held that the purpose of providing employment to the dependant of a government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his unexpected death while in service. To alleviate the distress of the family, such

appointments are permissible on compassionate grounds provided there are Rules providing for such appointments. None of these considerations can operate when the application is made after a long period of time. In that case also the delay was 17th years.

8. These aspects were highlighted in State of Manipur v. Md. Rajaodin, (2003 (7) SCC 511), State of Haryana & Anr. v. Ankur Gupta, (2003 (7) SCC 704), Haryana, State Electricity Board v. Naresh Tanwar, (1996 (8) SCC 23) and Haryana State Electricity Board v. Hakim Singh (1997 (8) SCC 85)."

6. Counsel further submits that the respondents have paid a sum of Rs.19,59,926/- towards the retiral benefits to the wife of the deceased-employee when she got the succession certificate and prayed for dismissal of the writ petition.

7. In rejoinder, counsel for the petitioner submits that the mother of the petitioner has also submitted his own affidavit for giving compassionate appointment to the petitioner.

8. During pendency of this writ petition, we have directed the respondents to inform the Court as to whether during the lifetime the deceased-employee had informed the department about his second marriage or not. In reply thereto, the respondents have submitted a document dated 16.09.2023 (C-1) in which Additional District and Sessions Judge No.2, Kota has stated that during the lifetime the deceased-employee has not submitted any information with regard to taking divorce from his first wife- Ramkanwari Bai and solemnised the second marriage with Smt. Dev Bai. It has been further mentioned in the said letter that in the service record, the first wife Ramkanwari Bai has been mentioned as nominee.

9. We have heard counsel for the parties and perused the record.

10. In our considered view, the compassionate appointment cannot be claimed as a matter of right, the same is provided to give a relief to the family to come out from the financial crisis.

11. In the present matter, all the retiral dues, as informed, to the tune of Rs.19,59,926/- has been paid to the mother of the petitioner on the basis of succession certificate issued in her favour.

12. We have also considered the fact that according to the scheme of rules, the wife of the deceased employee has to submit application seeking compassionate appointment either for herself or for her son or daughter whereas admittedly in the present case, the wife of the deceased employee has not submitted any such application.

13. We have also considered the fact that the deceased-employee in his lifetime never informed the department about taking divorce from his first wife and solemnised second marriage.

14. We have also considered the fact that the petitioner is having the degree of Bachelor of Engineering and the employee died in the year 2015 and after ten years of the death of the deceased-employee, we are not inclined to allow the writ petition at this stage just to facilitate the appointment in favour of the petitioner.

15. In view of the above discussion, this writ petition stands dismissed.

(RAVI CHIRANIA),J

(INDERJEET SINGH),J