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IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 3<sup>rd</sup> DAY OF JANUARY, 2022

BEFORE

HON'BLE MS. JUSTICE SABINA

&

HON'BLE MR. JUSTICE SATYEN VAIDYA

CIVIL WRIT PETITION (ORIGINAL APPLICATION)

No.2619 of 2020

Between:-

**MOTI RAM**

**SON OF LATE SH. SHER SINGH,  
RESIDENT OF VILLAGE SIDHWAN,  
P.O. BANJAR, TEHSIL BANJAR,  
DISTRICT KULLU, H.P.**

.....PETITIONER

**(BY MR. NAVEEN K. BHARDWAJ,  
ADVOCATE)**

**AND**

1. **HIMACHAL PRADESH ELECTRICITY BOARD LIMITED THROUGH ITS SECRETARY, VIDYUT BHAWAN, SHIMLA-4.**
2. **HIMACHAL PRADESH ELECTRICITY BOARD LIMITED THROUGH ITS UNDER SECRETARY (NGE), VIDYUT BHAWAN, SHIMLA-4.**
3. **THE EXECUTIVE DIRECTOR (PERS) VIDYUT BHAWAN SHIMLA-4.**
4. **THE SUPERINTENDING ENGINEER (OP) CIRCLE HPSEBL, KULLU, H.P.**
5. **THE SR. EXECUTIVE ENGINEER ELECTRICAL DIVISION HPSEBL, KULLU, H.P.**

.....RESPONDENTS

**(BY MR. ANIL KUMAR GOD,  
ADVOCATE)**

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*This petition coming on for admission this day, Hon'ble Ms. Justice Sabina, passed the following:*

**ORDER**

Petitioner had filed original application before the Himachal Pradesh State Administrative Tribunal at Shimla. After abolition of the Tribunal, the original application was transferred to this Court.

2. Learned counsel for the petitioner has submitted that the father of the petitioner was working as a T-Mate with the respondent-department and had died while in service, on 03.03.2007. Petitioner by approaching the respondents, had sought appointment on compassionate basis. However, the case of the petitioner has been wrongly rejected on the ground that since the mother of the petitioner was already serving in Himachal Pradesh Public Works Department, therefore, he was not entitled for appointment on compassionate basis.

3. Learned counsel for the respondents has submitted that as per Clause-5 (c) of the Policy (Annexure R/A-1), dated 18.1.1990, case of the petitioner has been rightly rejected as the mother of the petitioner was already in a Government job.

4. It has been held by the Hon'ble Supreme Court in ***State of Himachal Pradesh & another*** Versus ***Shashi Kumar, (2019) 3, SCC 653***, as under:-

*“While considering the rival submissions, it is necessary to bear in mind that compassionate*

*appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. Dependants of a deceased employee of the State are made eligible by virtue of the Policy on compassionate appointment. The basis of the policy is that it recognizes that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service. It is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. Where the authority finds that the financial and other circumstances of the family are such that in the absence of immediate assistance, it would be reduced to being indigent, an application from a dependant member of the family could be considered. The terms on which such applications would be considered are subject to the policy which is framed by the State and must fulfill the terms of the Policy. In that sense, it is a well-settled principle of law that there is no right to compassionate appointment. But, where there is a policy, a dependant member of the family of a deceased employee is entitled to apply for compassionate appointment and to seek consideration of the application in accordance with the terms and conditions which are prescribed by the State.”*

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5. Respondents have placed on record policy framed by them dated 18.01.1990, for appointment of sons/daughters/near relations of a Government servant who dies in harness leaving his family in immediate need of assistance. Clause 5 (c) of the said policy reads as under:-

*“In all cases where one or more members of the family are already in Govt. Service or in employment of Autonomous Bodies/Boards/Corporation etc., of the State/Central Govt. employment assistance should not under any circumstances be provided to the second or third member of the family. In cases, however, where the widow of the deceased Govt. Servant represents or claims that her employed sons/daughters are not supporting her, the request of employment assistance should be considered only in respect of the widow. Even for allowing compassionate appointment to the widow in such cases the opinion of the department of Personnel and Finance Department should specifically be sought and the matter finally decided by the Council of Ministers.”*

6. Thus, the petitioner was not entitled for appointment on compassionate basis in view of Clause-5(c) of the relevant policy as his mother was already in a government job. Hence, the respondents have rightly rejected the case of the petitioner for his appointment on compassionate basis. Therefore, no ground for interference, while

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exercising extraordinary writ jurisdiction under Article 226 of the Constitution of India, is made out. Accordingly, the petition is dismissed. Pending application(s), if any, also stand disposed of.

**(Sabina)  
Judge**

**(Satyen Vaidya)  
Judge**

**January 03, 2022**  
(ps/vh)

High Court of HP