

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (S) No. 7054 of 2008**

Sandeep Singh Rajput S/o Late Shri Ganesh Singh Rajput, R/o
Nayapara Chowk, Sheonath Nadi Road, District - Durg (C.G.)

---- **Petitioner****Versus**

1. State Of Chhattisgarh, through the Secretary, School Education
Department, D.K.S. Bhavan, Raipur (C.G.)
2. District Education Officer, District - Durg (C.G.)

---- **Respondents**

For Petitioner:

Mr. Vimal Tonde, Advocate

For State:

Mr. P.N. Bharat, Addl. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18.12.2015**

1. The Present petition has been preferred seeking relief of direction to the Respondents for considering the case of the Petitioner for compassionate appointment.
2. The grievance of the Petitioner is that his father died while he was a minor on 25.04.1992 working with the Respondent as an Upper Division Teacher. That after he has attained the age of majority he moved an application for compassionate appointment which was considered by the Respondent and the authorities concerned had recommended his name for being considered for compassionate appointment to the higher authorities as early as in the year 2002 itself, but no further action was taken and therefore he has filed the present Writ Petition.

3. Learned State Counsel however submits that this is the case where the death has occurred much before the creation of State of Chhattisgarh and that in the instant case even death is of the year 1992. The Policy of the State Government specifically says that they would consider an application for compassionate appointment in respect of those employees only who died subsequent to 01.12.1997 and then on that count the Petitioner has no right to claim for compassionate appointment.
4. The State Counsel also submits that the Petition is deserved to be rejected only on the ground of delay and laches and even on the ground that Petitioner has attained the age of majority in the year 2001 and he did not pursue his remedy and has filed the present Writ petition only in year 2008 i.e. 7 years after attaining the age of majority and around 15 years after the date of death of his father.
5. The law in this regard which by now is well settled in a catena of decisions of the Hon'ble Supreme Court whereby it has been held that compassionate appointment has to be raised and considered by the employer immediately after the death of the deceased employee. The claim for compassionate appointment has to be promptly raised by the claimant and it cannot be raised at a belated stage. The purpose of providing appointments on compassionate ground is to mitigate the hardship due to death of the bread-earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress. Care has, however, to be taken that provision for ground of compassionate employment which is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek

appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependent of the deceased employee. As it is in the nature of exception to the general provisions, it cannot substitute the provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision. Compassionate ground is not a method of recruitment but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment.

6. The Supreme Court in a recent decision reported in (2012) 13 SCC 412 (Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh) reiterating the above given legal positions in paragraph-18 has held as under:

“18. The very object of making provision for appointment on compassionate grounds, is to provide succour to a family dependent on a government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole breadwinner. Delay in seeking such a claim is an antithesis for the purpose for which compassionate appointment was conceived. Delay in raising such a claim is contradictory to the object sought to be achieved.”

7. Further in Paragraph-19 also the Supreme Court in very categorical terms while restricting the scope of interference in a petition for compassionate appointment has held as under:

“19. The courts and tribunals should not fall prey to any sympathy syndrome, so as to issue directions for compassionate appointments, without reference to the prescribed norms. The

courts are not supposed to carry Santa Claus's big bag on Christmas eve to disburse the gift of compassionate appointment to all those who seek a court's intervention. The courts and tribunals must understand that every such act of sympathy, compassion and discretion wherein directions are issued for appointment on compassionate grounds could deprive a really needy family requiring financial support, and thereby, push into penury a truly indigent, destitute and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion."

8. Considering the total facts and circumstances of the case firstly that the claim itself is raised at a belated stage and secondly the Petitioner has not given any sufficient reason for not raising his claim within the reasonable time and also relying upon the decisions of the Supreme Court cited above this Court is of the opinion that no good case is made out for interfering with the petition for grant of compassionate appointment to the petitioner at such a belated stage.
9. Thus, the instant Petition being devoid of merit deserves to be rejected is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE