

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 6850 of 2008**

Smt Bhagwati Dhruv, W/o Late Chandrabhan Singh Dhruv, aged about 35 years, R/o Block Colony, Darbha, Distt. Bastar (CG)

---- **Petitioner**

**Versus**

1. State of Chhattisgarh through the Secretary, Panchayat and Social Welfare Department, Mantralaya, Raipur (CG)
2. The Deputy Director, Panchayat and Social Welfare Department, Jagdalpur, Distt. Bastar (CG)
3. The Chief Executive Officer, Janpad Panchayat, Darbha, Distt. Bastar (CG)
4. The Collector, Bastar, Jagdalpur, Distt. Bastar (CG)
5. The Secretary General Administration Department, Mantralaya, Raipur (CG)

---- **Respondents**

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| For Petitioner:        | Shri Keshav Dewangan, Advocate. |
| For Respondents/State: | Shri Bhupendra Singh, PL        |

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**Single Bench:**      **Hon'ble Shri P. Sam Koshy, J**  
**Order On Board**

**24.08.2015**

The petitioner through the present writ petition has claimed for compassionate appointment and has also challenged the order Annexure P-1 dated 27.2.2008, whereby the claim of the petitioner for compassionate appointment was rejected.

2. The claim of the petitioner is that his father, who was an employee under the respondents, had died in harness on 10.11.2004 and immediately after the death of his father, he had moved an application on 1.4.2005 to the respondents seeking compassionate appointment but the respondents sat over the file and did not decide the same nor have considered the case of the petitioner for grant of compassionate appointment and finally the impugned order Annexure P-1 was issued rejecting his claim stating that since the claim for compassionate appointment could be kept alive only for the period of 3 years and during the

said period of 3 years, as there are no vacancies available under the 10% quota reserved for recruitment by way of compassionate appointment, the claim of the petitioner was rejected.

3. According to counsel for the petitioner, the said impugned order is bad in law as the petitioner had applied for grant of compassionate appointment timely and that had the respondents immediately acted upon his application, his case could have been considered by them and he could have got the benefit of compassionate appointment but the respondents deliberately and arbitrarily sat over the file and kept it pending for 3 years and thereafter have passed the impugned order, which therefore deserves to be set aside.

4. State counsel opposing the petition submits that it is not a case where the petitioner's claim for compassionate appointment was not considered. According to him, his claim was immediately considered but since at the local level as is evident from Annexure P-7 dated 21.6.2005, a correspondence made by Director, Panchayat and Social Service Department to the Collector, District Bastar intimating him that since there is no vacancy at the local level, the claim of the petitioner for compassionate appointment may be considered at the district level.

5. He further submits that a plain reading of Annexure P-1 would also show that the case of the petitioner was considered and he was found suitable for compassionate appointment but for the non-availability of vacant posts both at the district level and at the local level, he could not be granted compassionate appointment. According to him, under the Rules/Circular of the State Government, only 10% of the vacancies available are to be filled up by way of compassionate appointment and he refers to Annexure R-2 dated 29.1.2007 in respect of the same and further submitted that since the petitioner could not be considered for appointment because of the non-availability of vacancy, the matter was kept pending for a period of 3 years and it was only subsequent to

the completion of three years' period, the impugned order Annexure P-1 dated 27.2.2008 was issued and for all these reasons the same cannot be said to be illegal, arbitrary or contrary to law.

6. A perusal of the records would show that the petitioner through his pleadings, has already not been able to establish before this Court that during this relevant 3 years' period, there were vacancies at the district level or at the local level which have been wrongly retained by the respondents/authorities ignoring the claim of the petitioner neither is there any averment on the part of the petitioner in rebuttal by way of the rejoinder to the reply filed by the respondents.

7. In the given facts and circumstances of the case, it is only to be presumed that the averment made by the State in the issuance of the impugned order Annexure P-1 dated 27.2.2008 is proper, legal and justified in as much as there being no vacancies available for a period of 3 years from the date of death of the deceased/employee upon which the petitioner could have been granted appointment.

8. Accordingly, the instant writ petition being devoid of merit, the same is dismissed.

Sd/-  
(P. Sam Koshy)  
Judge