

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4535 of 2010**

Smt. Sunita Manjhi Wd/o Late Shri Sumaran Singh Manjhi, aged about 35 years, by caste Halba, Occupation – House Wife, R/o Tahsilpara, Narayanpur, District narayanpur (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh, through the Secretary, Tribal Welfare Department, Mantralay at D.K.S. Bhawan, Chhattisgrah Raipur
2. The Commissioner Tribal Welfare, Chhattisgarh, Raipur (C.G.)
3. The Collector (Tribal Development) Distt.-Narayanpur (C.G.)
4. The Assistant Commissioner Tribal Development, Distt.-Narayanpur (C.G.)
5. The Block Education Officer Block Narayanpur, Distt.-Narayanpur (C.G.)

---- Respondents

For Petitioner:

Mr. S.K. Thomas, Advocate

For State:

Mr. P.N. Bharat. Add. Advocate General

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

1. The Petitioner through the present Writ Petitioner has sought directions to the Respondent for considering grant of compassionate appointment to her.
2. According to the Petitioner her husband who was working as Assistant Teacher with the Tribal Welfare Department of the State died on 25.06.2004 and thereafter she immediately moved an application for compassionate appointment which was not considered by the Respondent and the subsequent application has been rejected on the

ground of that the same has been filed at a belated stage. On a query to the Counsel for the Petitioner he submitted that he does not have the copy of the first application that she had made nor does he have any proof to substantiate the same.

3. Learned State Counsel opposing the Petition submits that with the documents available with the Respondent-State itself it is evidently clear that the Petitioner for the first time had moved her application for grant of compassionate appointment only on 13.11.2009 and prior to that there was no any application made, which shows that the Petitioner had moved an application after a period of 5 years after the death of the deceased employee. He further submits that as per the Scheme of compassionate appointment claim for compassionate appointment has to be made within 6 months from the date of the death of the deceased and which having not done in the present case the claim of the petitioner was rightly been rejected by the State Government.
4. The State Counsel also submits that with regard to the Annexure-P/4 the date of application appears to be a typographical error and Annexure R/1 and R/2 specifically denotes the date of application which was considered for her application being rejected. It is settled law that application for compassionate appointment has to be moved within the stipulated period and if same has not been moved rejection on ground being barred by time as per the Scheme is not bad in law.
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 considered by the employer immediately after the death of the deceased employee and 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. Accordingly, in the instant Petition the application for compassionate appointment having rejected on the background of filing beyond prescribed period, this Court finds no infirmity in the same.
9. Thus, the instant Petition being devoid of merit deserves to be rejected is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE