

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 2616 of 2005**

Smt. Aruna Sinha

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

State of Madhya Pradesh and Others

---- **Respondents**

For Petitioner	:	Shri Pawan Kesharwani under instruction of Shri Kishore Bhaduri, Advocate
For Respondent/State	:	Shri Bhupendra Singh, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/09/2015**

The petitioner in the present writ petition has challenged the initiation of filling up the post of Aero Modeling Instructor by the respondents on the ground that she is entitled for the said post.

2. According to the petitioner, her husband was working as an Aero Modeling Instructor (hereinafter referred as 'AMI') with the respondents who died in harness on 07.03.1997. After death of the deceased employee, the petitioner was granted compassionate appointment on the post of Assistant Grade III w.e.f. 29.07.1997 and since then the petitioner has been working on the said post with the respondents.

3. The petitioner through the present writ petition is challenging the action on the part of the respondents whereby they have initiated steps for filling up the regular post of AMI on the ground that she is also qualified, competent and is discharging the duties of AMI as in-charge since her initial appointment in the year 1997 as Assistant Grade III and therefore her case may be considered sympathetically on the said post particularly

when she is eligible and is performing the duties of AMI in an in-charge capacity.

4. State counsel opposing the petition submits that the petitioner would not have any right for being appointed on compassionate ground for a particular post or choice post particularly when the petitioner on initial stage has been granted compassionate appointment which has been duly accepted by the petitioner in the year 1997 itself.

5. The law in this regard is well settled in the case of **State of Rajasthan v. Umrao Singh** reported in **(1994) 6 SCC 560** wherein the Supreme Court has categorically held that once the compassionate appointment was given and accepted by an employee, the right to such appointment stood exhausted and the case for consideration for higher post would not be warranted at all. In this regard, the Supreme Court further in the case of **Director of Education (Secondary) and Another v. Pushpendra Kumar and Others** reported in **(1998) 5 SCC 192** has categorically held that an employee cannot insist upon for a particular post for appointment under compassionate ground emphasizing the object underlying a provision for grant of compassionate employment is to enable the family of deceased employee to tide over the sudden crisis resulting due to death of the bread-earner which has left the family in penury.

6. The above stated two judgments further stand fortified by a subsequent judgment of the Supreme Court reported in **(2007) 6 SCC 162** in the case of **I. G. (Karmik) and Others v. Prahalad Mani Tripathi** wherein the Supreme Court in paragraph-12 has in very categorical term held as under:

“12. Furthermore, the respondent accepted the said post without any demur whatsoever. He, therefore, upon obtaining

appointment in a lower post could not have been permitted to turn round and contend that he was entitled for a higher post.”

7. For the aforementioned reasons, the instant writ petition preferred by the petitioner being totally devoid of merit and being misconceived, is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**

Bhola