

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 5253 of 2011**

Sahodra Bai D/o Chhatram Yadav, R/o village Chandipara,
Tahsil Pamgarh, District Janjgir-Chamapa (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Department of Public Works, D.K.S. Bhawan, Raipur, District Raipur (CG)
2. Executive Engineer, Public Works Department, Champa, Division Champa, District Janjgir-Champa (CG)
3. Additional Secretary, Department of Public Works, D.K.S. Bhawan, Raipur, District Raipur (CG)

---- Respondents

For Petitioner	:	Shri F. S. Khare, Advocate
For Respondents/State	:	Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****18/12/2015**

Challenge in the present writ petition is to the order dated 28.02.2011 Annexure P-1 whereby the claim of the petitioner for compassionate appointment has been rejected.

2. According to the petitioner, her mother was working as a permanent labour with the respondents in the year 1979 onwards and she died, while in service, on 06.12.1999 and since then she has been pursuing her claim for compassionate appointment with the respondents but on some pretext or the other, the respondents have been refusing the same.

3. Counsel for the petitioner submits that initially, the claim of the petitioner was rejected on 12.10.2006 against which the petitioner filed a petition registered as W.P.(S) 6002/2007 which was dismissed on 24.08.2009 as withdrawn with liberty to move representation to the respondents. However, the representation moved by the petitioner was

rejected on 22.09.2009 by the respondents which was again challenged by another writ petition i.e. W.P (S). No. 3001/2010 which was also dismissed as withdrawn with liberty to approach the Authorities by moving an appropriate representation. He further submits that the second representation again stood rejected by the impugned order dated 28.02.2011 i.e. Annexure P-1 which is under challenge in the present writ petition.

4. According to the counsel for the petitioner, the respondents have wrongly rejected the claim of the petitioner and that the mother of the petitioner ought to have been treated as a regular Gangman under the work-charged establishment on the basis of the circular of the respondents dated 20.09.2005 and the case of the petitioner for compassionate appointment should have been considered in her favour.

5. State counsel opposes the contention of the petitioner and submits that the petitioner was not eligible for grant of compassionate appointment for the reason that the impugned order itself shows that the mother of the petitioner was not a regular contingency paid employee. He submits that since the mother of the petitioner was not a regular employee, the claim of the petitioner for compassionate appointment has rightly been rejected by the respondents. He submits that so far as the circular dated 20.09.2005 is concerned, even that is not coming to the aid of the petitioner as the same is applicable only for the regular employees under the work-charged establishment and the regular employees under the State Government.

6. On perusal of the record it clearly reveals that the petitioner has not been able to show that her mother was a regular employee of the State Government or for that matter was regularized under the work-

charged establishment. Counsel for petitioner through the present writ petition wants this Court to draw an inference that the services of the petitioner's mother stood regularized in view of the long services that she had rendered with the respondents. However, it is settled law that unless a right has been created in favour of the person, she cannot claim for the fruits of the said status. In the instant case also, since the petitioner herself has failed to establish the fact that her mother was a regular employee of the respondents or for that matter she was regularized under the work-charged establishment, the case of the petitioner has rightly been rejected by the respondents.

7. The Hon'ble Supreme Court in the case of State of Haryana and others v. Rani Devi and another reported in AIR 1996 SC 2445 in paragraphs 7 & 8 has held as under:

“7.If the Scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad hoc employees including those who are working as Apprentices, then such scheme cannot be justified on constitutional grounds. It need not be pointed out that appointments on compassionate grounds, are made as a matter, of course, without even requiring the person concerned to face any Selection Committee.

8. According to us, when the aforesaid Government Order dated 31.10.1985 extends the benefit of appointment to one of the dependants of the 'deceased employee' the expression 'employee' does not conceive casual or purely ad hoc employee or those who are working as apprentices. Accordingly, the appeals are allowed and the impugned orders on the two writ petitions, filed on behalf of the respondents are set aside.”

8. Thus, this Court does not find any infirmity in the impugned order dated 28.02.2011 passed by the respondents. Accordingly, the instant petition being devoid of merit is rejected.

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