

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6041 of 2011**

Kunti Yadav D/o Late Shri Redheshyam Yadav R/o Surya Rice Mill Marg
Mahasamunddistt. Mahamund C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh, through its Secretary, Public Works Department, D.K.S. Bhawan, Raipur (C.G.)
2. Engineer In Chief Public Works Department Sirpur Bhawan Civil Line Beh. Akashwani Bhawan Raipur (C.G.)
3. Chief Engineer Public Works Department Raipur (C.G.)
4. Superintendent Engineer (Administration), Public Works Department, Sirpur Bhawan Civil Line Beh. Akashwani Bhawan Raipur (C.G.)
5. Executive Engineer Public Works Department Mahasamund Division Mahasamund (C.G.)
6. Sub Divisional Officer (SDO), Public Works Department Mahasamund, Sub Division, Mahasamund (C.G.)

---- Respondents

For Petitioner:
For State:

Mr. Vaibhav Shukla, Advocate
Mr. Ashok Swarnkar. Panel Lawyer

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

1. The Present petition has been filed seeking cancellation of Annexure-P/1 dated 05.02.2011 which is an order in respect of rejection of the claim of compassionate appointment by the Petitioner.
2. Learned Counsel for the Petitioner submits that the father of the Petitioner was working with the Respondent who died while on service on 27.07.2004. On the date of death of father of the Petitioner, she was minor. That after she attained the age of majority she applied for grant of compassionate appointment on 11.09.2009. The Respondent

vide impugned order rejected her application on the ground that the same has been filed beyond the period prescribed under the Scheme of Compassionate Appointment, therefore it could not be considered.

3. According to Petitioner rejection of the application is bad in law for the reason that neither the Scheme of Compassionate Appointment stipulates such condition, nor there is any ground in the Scheme which says that in case if the claimant is minor on the date of death of the deceased employee then they will not be eligible for employment.
4. Learned Counsel for the Petitioner thus submits that at the time of death of the deceased there were no eligible candidate in the family who could seek compassionate appointment, therefore the Petitioner had moved the application after she attained the age of majority.
5. Learned State Counsel however opposing the Petition submits that claim for compassionate appointment is made to meet out an immediate hardship that the family faces on death of the deceased-employee. The Petitioner has failed to disclose the basic facts in respect of whether there were other eligible members in the family who could seek employment, whether there were other family members also who were employed elsewhere who could have taken care of her. He further submits that only on the ground that the Petitioner was minor at the relevant point of time by itself would not create a right in favour of the Petitioner in getting the compassionate appointment. There are other relevant factors which is required to be taken care by while considering grant of compassionate appointment like financial status of the Petitioner, availability of the vacancy etc. In the instant case since the Petitioner has not been able to substantiate or given sufficient material in respect of these relevant factors, the

application for compassionate appointment was rightly rejected by the Respondent. Even otherwise It is well settled that compassionate appointment is not an alternate source of employment but only a welfare measure adopted by the State Government to meet the immediate crisis that family faces on the death of the deceased employee.

6. 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.

7. 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.”

8. 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.”

9. Considering the total facts and circumstances of the case 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.

10. Thus, the instant Petition being devoid of merit deserves to be rejected is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE