

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1204 of 2012**

- Chudamani S/o late Shri Daduram, aged about 23 years, Resident of Village Dava, Police Station, Udaipur, Post Dandgaon, District Surguja (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Tribal Welfare Department, DKS Bhawan, Raipur (CG).
2. Assistant Commissioner, Tribal Welfare Department, Ambikapur, District Surguja (CG).
3. Block Education Officer, Block Udaipur, District Surguja (CG).

---- Respondents

For Petitioner	Shri Somkant Verma, Advocate.
For respondents/State	Shri Ashok Swarnakar, Panel Lawyer.

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

1. The petitioner through this petition seeks to impugn the order dated 10.10.2008 whereby his claim for compassionate appointment has been rejected.
2. Learned counsel appearing for the petitioner submits that father of the petitioner died in harness on 08.03.2006 while working with the respondents. The petitioner moved an application for compassionate appointment on 29.05.2006 i.e. within the prescribed limit of six months.

3. As per the records, the petitioner moved an application for compassionate appointment only on 17.09.2007 and not on 29.05.2006, and therefore the respondent authorities have rejected the same on the ground of delay on 10.10.2008. Even thereafter, the petitioner has filed this petition in the year 2012 i.e. four years after rejection of this claim for compassionate appointment.
4. Be that as it may, the fact remains that the petitioner did not submit the application within six months of death of the deceased employee. The Supreme Court in *State of Manipur vs. Md. Rajaodin*¹ the Supreme Court, after having heard various cases on compassionate appointment, observed as under :

"11. In *Smt. Sushma Gosain and Ors. v. Union of India and Ors.* (1989 (4) SCC 468) it was observed that in all claims of appointment on compassionate grounds, there should not be any delay in appointment. 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. The fact that the ward was a minor at the time of death of his father is no ground, unless the scheme itself envisage specifically otherwise, to state that as and when such minor becomes a major he can be appointed without any time consciousness or limit. The above view was reiterated in *Phoolwati (Smt.) v. Union of India and ors.* (1991 Supp (2) SCC 689) and *Union of India and ors. v. Bhagwan Singh* (1995 (6) SCC 476). In *Director of Education (Secondary) and Anr. v. Pushpendra Kumar and Ors.* (1998 (5) SCC 192) it was observed that in matter of compassionate appointment there cannot be insistence for a particular post. Out of purely humanitarian consideration and having regard to the fact that unless some source of livelihood is provided the family would not be able to make both ends meet, provisions are made for giving appointment to one of the dependants of the deceased who may be eligible for appointment. 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 dependant of the deceased employee. As it is in the nature of exception to the

¹ AIR 2003 SCW 4339

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."

(Emphasis supplied)

5. It is a trite law that appointment on 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. In *Haryana State Electricity Board and another vs. Hakim Singh*² the Supreme Court held that "the whole object of any compassionate appointment schemes is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning members."
7. The Supreme Court in *State of J & K and others Vs. Sajad Ahmed Mir*³, in para 11 has held as under:

"11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should not be departed from except where compelling circumstances demand, such as, death of the sole bread winner, the family survived and the family suffering because of the setback. Once it is proved that inspite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

² (1997) 8 SCC 85

³ 2006 (5) SCC 766

8. Applying the well settled principle of law to the facts of the case and the family members of the deceased employee had survived for about 9 years, the reasons for compassionate appointment is to tide over the financial problem of the dependants of the deceased employee, but not to provide employment on compassionate basis *de hors* the constitutional scheme of employment. There is no merit in this petition.
9. As a result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed at the motion stage itself.

Sd./-

(P.Sam Koshy)

JUDGE