

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 4059 of 2009**

Shri Pushpendra Nath Sonesare S/o Late Shri Uchit Ram Sonsare,
Aged about 19 years, R/o Charodavyaha, Adbhar, Dist. Janjgir
Champa (CG)

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

1. State of Chhattisgarh through the Secretary, Education Department,
D.K.S. Bhavan, Mantralaya, Raipur (CG)
2. The District Education Officer, Janjgir, Distt.-Janjgir-Champa (CG)

---- **Respondents**

For Petitioner	:	Shri Sushil Sahu on behalf of Shri Sunil Otwani, Advocate
For Respondent/State	:	Smt. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****11/09/2015**

The grievance of the petitioner in the instant case is that the respondents have denied him the benefit of compassionate appointment on the ground that he has moved his claim application after 5 ½ years of the death of the deceased employee.

2. Brief facts for adjudication of the writ petition are that the father of the petitioner namely Uchit Ram Sonsare who was working as an Assistant Teacher with the respondents died in harness on 23.12.2002. According to the petitioner, on the date his father expired, he was minor and that subsequently, on attaining the age of majority he moved an application for grant of compassionate appointment in August, 2008 which was rejected by the respondents vide Annexure P-1 dated 16.01.2009 on the ground that the petitioner had moved his claim application after 5 ½ years of the death of the deceased employee.

3. Counsel for the State submits that as per the scheme applicable for grant of compassionate appointment in the respondent State, the

application should have been made immediately after the death of the deceased employee but in the instant case as per the records available, the application for compassionate appointment on behalf of the petitioner was filed in the year 2008 i.e. after about more than 5 ½ years of death of the deceased employee and as such the claim put forth by the petitioner is at a belated stage. State counsel while filing reply to the writ petition has also enclosed the Policy of the State Government for grant of compassionate appointment where there is no provision that the claim for compassionate appointment would be kept alive till the complainant attains the age of majority.

4. The law in respect of grant of compassionate appointment is well settled that the compassionate appointment is granted to tide over the immediate financial crisis which the family of the deceased employee suffers on account of the death of the employee. But in the instant case the petitioner has admittedly filed the application after 5 ½ years of the death of the employee which itself shows that he and his family members sustained themselves for these periods and therefore they do not appear to be in the stage of penury which is the object behind grant of compassionate appointment.

5. In the matter of **State of J & K and others vs. Sajad Ahmed Mir**¹, the Supreme Court after having considered all the aspects of compassionate appointment, in para 11 observed 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 be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as death of the sole breadwinner and likelihood of the family suffering

¹ (2006) 5 SCC 766

because of the setback. Once it is proved that in spite 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.”

6. In the matter of **Haryana State Electricity Board and another vs. Hakim Singh**² the Supreme Court held that “the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependants on account of the untimely demise of its sole earning member.”

7. Further, in case of **Union of India & Another vs. Shashank Goswami and Another**³ the Supreme Court has held as under :

10. As a rule public service appointment should be made strictly on the basis of open invitation of applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis and not to confer a status on the family. Thus, applicant cannot claim appointment in a particular class/group of post. Appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.”

8. In addition, very recently in case of **MGB Gramin Bank Vs. Chakrawarti Singh**⁴ the Supreme Court in a very categorical term has held as under :

6.....The consideration for such employment is not a vested right. The object being to enable the family to get over the financial crisis.”

8. An “ameliorating relief” should not be taken as opening an alternative mode of recruitment to public employment. Furthermore, an application made at a belated stage cannot be entertained for the reason that by lapse of time, the purpose of making such appointment stands evaporated.”

² 2007 AIR SCW 6060

³ (2012) 11 SCC 307

⁴ (2014) 13 SCC 583

9. For the foregoing reasons and taking into consideration the judicial pronouncements referred to as above and also the fact that the application for compassionate appointment has been made at a belated stage, this Court is not inclined to entertain the writ petition.

10. Accordingly, the instant writ petition is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

Bhola