

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (S) No.5076 of 2014**

Pooja Soni D/o Ram Sawaroop Soni aged about 29 years, R/o Village-Kanjiya Samari Road-Kushami P.S. & Tehsil-Kushami, Distt.-Balrampur-Ramanujganj (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh Through-The Secretary, Department of Home, Mahanadi Bhawan New Raipur, Distt.Raipur (CG)
2. Inspector General of Police Surguja Range, Ambikapur, Distt.Surguja (CG)
3. Superintendent of Police, Balrampur, Distt. Balrampur-Ramanujganj (CG)

---- Respondents

For Petitioner	:	Mr.A.N.Pandey, Advocate
For Respondents	:	Mr.Y.S. Thakur, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****14/12/2015**

1. Learned counsel for the petitioner would submit that application of the petitioner for compassionate appointment has been rejected by respondent No.2 on the ground that the petitioner is married sister and married sister is not entitled for compassionate appointment.
2. In Writ Petition (S) No.296 of 2014 (Smt.Sarojini Bhoi v. State of Chhattisgarh and others), decided on 30.11.2015, this Court has declared the policy of the State Government excluding married daughter for consideration of compassionate appointment void and inoperative and held as under:-

27. In above-stated judgment with reference to Constitutional provisions, it has clearly been held by Their Lordships of the Supreme Court that no discrimination can be made in public employment on gender basis as Article 16(2) of the Constitution of India clearly provides that no citizen shall on the ground of sex be ineligible or discriminated against in respect of any employment or office under the State. In the case in hand, the married son is entitled for compassionate appointment on account of death of his father or mother as the case may be but that is not so with the unmarried daughter as such disqualification is based on sex. Thus, it is a clear case of discrimination on the basis of sex which is in teeth of Constitutional mandate guaranteed under Article 16(2) of the Constitution of India.

28. Thus, from the aforesaid analysis, it emanates that institution of marriage is an important and basic civil right of man and woman and marriage by itself is not a disqualification and impugned policy of the State Government barring and prohibiting the consideration of the married daughter from seeking compassionate appointment merely on the ground of marriage is plainly arbitrary and violative of constitutional guarantee envisaged in Article 14, 15 and 16(2) of the Constitution of India being unconstitutional.

29. As a fallout and consequence of aforesaid discussion, writ petition is allowed and consequently Clause 3(1)(c) of policy relating to compassionate appointment dated 10/06/2003 and Clause 5(c) of policy dated 14/06/2013 being violative and discriminatory to the extent of excluding married daughter for consideration from compassionate appointment are hereby declared void and inoperative and consequently the impugned order (Annexure-P/3) rejecting the petitioner's case for compassionate appointment is quashed. The respondents/State is directed to reconsider the claim of petitioner for being appointed on compassionate ground afresh in accordance with law keeping in view that her father died on 06/01/2011 and her application was rejected on 28/09/2011, preferably within a period of forty five days from the receipt of certified copy of order. No order as to cost(s)."

3. In view of the decision rendered by this Court in the matter of Smt.Srojini Bhoi (supra), which squarely applies to the facts of the present case, the present writ petition is allowed and order dated

1.3.2014 (Annexure P/1) passed by respondent No.2 rejecting the claim of the petitioner for compassionate appointment is hereby set aside. Respondent No.2 is directed to reconsider the claim of the petitioner in the light of the decision rendered by this Court in the matter of Smt.Sarojni Bhoi (supra).

4. The petitioner is allowed to make a representation along with copy of this order and enclosing copy of order in case of Smt.Sarojni Bhoi (supra) within 30 days from today and in turn, respondent No.2 would take a decision on the representation of the petitioner within further 45 days from the date of production/receipt of representation of the representation. No order as to cost(s).

**Sd/-
(Sanjay K. Agrawal)
JUDGE**

B/-