

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (S) No. 883 of 2008**

Parwati, widow of Pardeshi Ram, Aged 31 years, R/o village Jamhore,
Police Station Shankargarh, Tahsil Samri (Kusmi), District Sarguja
(Chhattisgarh)

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

1. State of Chhattisgarh, through Chief Secretary Revenue Department
D.K.S. Bhawan Raipur (Chhattisgarh)
2. Collector Ambikapur, District Sarguja (Chhattisgarh)
3. Tahsildar Kusmi, Tahsil Samari, District Sarguja (Chhattisgarh)

---- **Respondents**

For Petitioner:

Mr. R.V. Rajwade, Advocate under
instruction of Mr. Jagdish Singh Baraik,
Advocate

For State:

Mr. P.N. Bharat, Addl. Advocate General

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

1. The Present petition has been preferred seeking quashment of order dated 11.01.2002 (Annexure-P/5) whereby the claim for compassionate appointment of the Petitioner was rejected.
2. The facts relevant in the present Writ Petition is that the deceased employee namely Nanka Ram was working as peon (faras) in the office of the Tahsildar, Samari, district Sarguja. Nanka Ram died while he was in service on 28.02.2001. As per the scheme of compassionate appointment any application for compassionate appointment ought to have been made within a period of 3 months from the date of death of the deceased. However, in the instant case

application for compassionate appointment was made for the first time on 08.11.2001. As such application was made much more than 8 months after the date of death of the deceased employee the Respondent rejected the claim application on the ground that the application was filed beyond the time limited fixed in the Scheme for Compassionate Appointment.

3. Learned Counsel for the Petitioner submits that said action on the part of the Respondents are illegal and bad in law for the reason that Respondent authorities had not informed the legal heirs of the deceased employee that the application ought to have been made within 3 months and that due to ignorance they moved the application after the time period, therefore rejection on the ground barred by time is bad in law.
4. Learned State Counsel however opposing the Petition submits on the claim for compassionate appointment the relevant factors to be considered is that whether there is a stage of penury or destitute faced by the legal heirs of the deceased employee caused due to the untimely death of the deceased. In the instant case application for compassionate appointment has been made after a considerable period of time from which itself it is evident that they were able to sustain themselves well, therefore, they are not entitled for compassionate appointment.
5. The State Counsel further submits that even otherwise grant of compassionate appointment can only be purely in accordance with the guidelines and conditions stipulated in the Scheme for grant of compassionate appointment and on this ground also the Petitioner is not entitled for any relief.

6. Considering the rival submissions by the Counsel on either side and taking into consideration the fact that the application for compassionate appointment was filed by the claimant much after the period prescribed under the Scheme of Compassionate Appointment and the application was rejected on the ground of having filed at a belated stage. This Court does not find any infirmity in the action on the part of the Respondent.
7. 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 considered by the employer immediately after the death of the deceased employee and 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.

8. 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.”

9. 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.”

10. Considering the total facts and circumstances of the case and also relying upon the decisions of the Supreme Court cited above that once

a time is fixed under the Scheme for grant of compassionate appointment, if an application for compassionate appointment has not been made within the stipulated period the claimant would not be entitled for being considered for compassionate appointment for the reason that the very object of granting compassionate appointment would get diluted.

11. For the aforesaid reason this Court does not find any merit in the Writ Petition and accordingly the same is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE