

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) No. 1441 OF 2013

1. Smt. Parobai Samudre, widow of late Shri Balram Samudre, aged about 55 years,
2. Pawan Singh Samudre, son of late Shri Balram Samudre, aged about 27 years,

Both R/o. Jabdapara, Bilaspur, P.S. Civil Line, Tahsil Bilaspur, Civil and Revenue District Bilaspur (C.G.), PIN 495001

... Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Health Department, Mahanadi Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Health Services, Raipur, Mahanadi Bhawan, Mantralaya, Raipur (C.G.)
3. Chief Medical Officer, Bilaspur, Seepat Road, P.S. Sarkanda, Tahsil and District Bilaspur (C.G.)
4. Superintendent, Main Hospital, Sardar Patel Hospital, Bilaspur, P.S. Tarbahar, District Bilaspur (C.G.)

... Respondents

For Petitioner	:	Mr. R.K. Masih, Advocate.
For Respondent-State	:	Ms. Madhunisha Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/12/2015

1. The present writ petition has been filed by the Petitioners seeking for a direction to the Respondents for grant of compassionate appointment.
2. The admitted facts in the instant case are that the father of Petitioner No.2 and the husband of Petitioner No.1 while working on the post of Sweeper with the Respondents had died on 8.7.2000. According to the Petitioners, the service of the deceased employee was placed under suspension on 3.10.1992 on account of his getting involved in a criminal case under Section 379 IPC, for which he was prosecuted before the Judicial Magistrate First Class, Bilaspur in Criminal Case No. 226 of 1996. However, the deceased employee was acquitted *vide* judgment dated

1.8.1996 and subsequent to his acquittal the Respondent authorities, as is evident from Annexure P-5, dated 20.1.2005, had ordered for treating the period from 3.10.1992 to 7.7.2000, i.e., the period of suspension, as the period spent on duty with all consequential benefits. However, immediately thereafter the concerned employee died on 8.7.2000.

3. Counsel for the Petitioner referring to the documents Annexure P-5, dated 20.1.2005 and Annexure P-6, dated 3.12.2004 submits that in spite of the fact that the Respondents authorities have recommended the case of the Petitioners for receiving the monetary benefits payable to the deceased employee but the same has not been extended to the Petitioners.

4. Unfortunately, the present writ petition is confined only for seeking compassionate appointment and that too was filed in the year 2013, that is after more than 13 years from the date of death of the deceased employee, as such the petition suffers from delay and laches.

5. The law in this regard 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 applied by the applicant(s) promptly and considered by the employer also immediately after the death of the deceased employee. The claim for compassionate appointment has to be promptly raised by the claimants and it cannot be raised at a belated stage. The purpose of providing appointments on compassionate ground is to mitigate the hardship due to the 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.

6. 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.”

7. 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.”

8. In the instant case, the very fact that the Petitioners had not made any effort for about 13 years with the Respondents for grant of compassionate appointment, this Court is of the opinion that the present Petition suffers from delay and laches and that the relief of compassionate appointment sought for through the present writ petition deserves to be rejected only on the ground of delay and laches.

9. Considering the fact that since the Petitioners have survived well for more than 13 years after death of the deceased employee, the reason for grant of compassionate appointment does not exist any further as the compassionate appointment is to be granted to tide over the immediate financial problem faced by the dependants of the deceased employee. Thus, the case of the Petitioners for grant of compassionate appointment at this belated stage, i.e., after more than 13 years, would amount to providing employment de hors the constitutional scheme of employment.

10. Needless to say that though this Court is rejecting the case of the Petitioners for grant of compassionate appointment but so far as the benefits which the deceased employee would have accrued as is reflected from Annexures P-5 and P-6, the Petitioners are at liberty to approach the competent authority for enforcement of the same, if it has not been done till date.

11. With the aforesaid observations, the writ petition is dismissed.

Sd/-
(P. Sam Koshy)
Judge