

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(S) No. 2120 of 2015

- Yugal Kishore Sahu S/o Late Shri Sudha Ram Sahu , Aged About 34 years, Occupation Service, Posted as Conductor at the Office Executive Engineer, Water Management Division No. 1 Rudri, Thana Dhamtari, Civil & Revenue District Dhamtari Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Secretary Water Resources Department, Mantralaya, Mahanadi Bahawan, Capital Complex, New Raipur District Raipur Chhattisgarh
- Chief Engineer Mahanadi Project, Water Resources Department, Raipur District Raipur Chhattisgarh

---- Respondent

For Petitioner	Mr. Sunil Sahu, Advocate
For Respondent/State	Mr. Shashank Thakur, Government Advocate

S.B. HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

Order On Board

19/06/2015

Heard finally with the consent of learned counsel for the parties.

2. The petitioner is assailing the legality and validity of the impugned order – Annexure P/1, whereby, the Chief Engineer, Mahanadi Project, Water Resources Department, Raipur has cancelled the petitioner's appointment on compassionate ground.

3. The petitioner's father Sudha Ram Sahu was working in the

Water Resources Department. On account of his death in harness, the petitioner was granted compassionate appointment on 29.10.2014. Subsequently, it came to the notice of the authorities that the petitioner's mother Meera Sahu is already employed in the department. Under clause 8 of the Government Instructions concerning grant of compassionate appointment, it is provided that when the widow/widower or unmarried son has an annual income of more than Rs.60,000/-, the dependent would not be entitled to compassionate appointment. Indisputably, the petitioner's mother is earning more than Rs.60,000/- per annum while being employed as contingency paid labourer in the department. Thus, the petitioner squarely falls within the mischief of the provisions contained in para 8 of the State Government's Circular dated 10.06.2003.

4. It has been argued that the impugned order has been passed without giving opportunity of hearing, therefore, it is in violation of principles of natural justice.

5. Having given anxious thought to the contention, it would appear to this Court that the fact of petitioner's mother being employed in the department is not in dispute. It is equally not in dispute that she is earning more than Rs.60,000/- per annum. The petitioner has not been removed on account of any allegation or finding of misconduct. The matter pertains to his eligibility for securing compassionate appointment. Even if an opportunity of hearing is granted to the petitioner, the above stated facts would not change.

6. It is settled principle that the principles of natural justice are not unruly horse and when the facts speaks for itself, necessity of compliance of principles of natural justice would not be attracted as it would be an empty formality.

7. The Supreme Court in the matter of *Municipal Committee, Hoshiarpur vs. Punjab State Electricity Board and others, (2010) 13 SCC 216*, held thus in para 31, 32 & 33 :

31. The principles of natural justice cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case. Thus, they cannot be put in a straitjacket formula.

“13. ... Natural justice is [not an] unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of.”

32. The two rules of natural justice, namely, *nemo judex in causa sua*, and *audi alteram partem* now have a definite meaning and connotation in law and their contents and implications are well understood and firmly established; they are nonetheless non-statutory. The court has to determine whether the observance of the principles of natural justice was necessary for a just decision in the facts of the particular case. (Vide *Board of Mining Examination and Chief Inspector of Mines v. Ramjee*, SCC p. 262, para 13; *Union of India v. Tulsiram Patel*; and *ECIL v. B. Karunakar*.)

33. There may be cases where on admitted and undisputed facts, only one conclusion is possible. In such an eventuality, the application of the principles of natural justice would be a futile exercise and an empty formality. (Vide *State of U.P. v. Om Prakash Gupta, S.L. Kapoor v. Jagmohan* and *U.P. Junior Doctors' Action Committee v. Dr. B. Sheetal Nandwani*.)

(emphasis supplied)

8. In the concerned opinion of this Court, there is no violation of principles assigned under Article 14 in the obtaining facts and circumstances of the case. Therefore, the petition has no substance and it deserves to be and is hereby dismissed.

JUDGE

Shyna