

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 335 of 2015**

Yashwant Kuma Gagda, aged about 23 years, S/o late Lachhinder Gagda,
R/o Dumartarai, post Babulbai, thana, tahsil and district Narayanpur.

---- Appellant

Versus

1. State Of Chhattisgarh through Secretary, Schedule Tribe and
Schedule Case Development Department, Mantralaya, Raipur
(Chhattisgarh)
2. Assistant Commissioner, Tribal Development, Dantewada.
3. The Collector South Bastar, Dantewada.

---- Respondents

For Appellant	:	Shri Parag Kotecha, Advocate.
For Respondent/ State	:	Shri U.N.S. Deo, Government Advocate.

HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.

Order On Board**Per NAVIN SINHA, C.J.****08/07/2015**

1. The present appeal arises from order dated 29.4.2015 dismissing Writ Petition (S) No. 1492 of 2015. The Learned Single Judge declined to issue any directions for considering the case of the Appellant for compassionate appointment.

2. Learned Counsel for the Appellant submits that he was a minor on 9.9.2003 when his father died in harness. After attaining majority in 2008 he immediately applied for compassionate appointment. The authorities wrongly rejected it. The Learned Single Judge ought to have given directions for considering his claim for compassionate appointment.

3. Learned Counsel for the State has opposed the application submitting that the time limit to apply was within three years from the date of death, which ran out during the minority of the Appellant. The order under appeal calls for no interference.

4. We have considered the submissions on behalf of the parties and also perused the order under appeal. The Learned Single Judge by a very reasoned order, in our opinion, has discussed the correct law with regard to compassionate appointment as being necessary for providing immediate succor to the family of the deceased due to the ultimately death of bread winner of the family. There can be no urgency for compassionate appointment after long years of death.

5. In (1997) 8 SCC 85 (Haryana State Electricity Board and another vs. Hakim Singh) noticed by the Learned Single Judge the claimant was also a minor at the time of death. The view taken by the Learned Single Judge with reference to Writ Petition (S) No. 3281 of 2014 (Sarfraz Ahmed Vs. State of Chhattisgarh and Others) finds ample echo in (2000) 7 SCC 192 (Sanjay Kumar vs. State of Bihar and Others) observing at paragraph 3 as follows:

'3. We are unable to agree with the submissions of the learned Senior Counsel for the petitioner. This Court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in 2(1998) 5 SCC 192 : 1998 SCC (I&S) 1302 : (1998) 2 Pat LJR 181 (Director of Education v. Pushpendra Kumar). It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.1998, the petitioner was a minor and was not eligible for appointment.

This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.'

6. We find no merit in the appeal. The writ appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE