

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3118 of 2015**

- Mohammad Sahir S/o. Late Mohammad Hanif Sheikh, Aged About 34 Years R/o. Ambikapur, P.S. & Post Ambikapur, Civil And Revenue District Surguja (Chhattisgarh)

---- Petitioner**Versus**

1. Chhattisgarh State Power Holding Company Limited Through Its Managing Director (Human Resources), Raipur, Civil And Revenue District Raipur Chhattisgarh
2. Deputy General Manager (Human Resources) -2, Chhattisgarh State Power Holding Company Limited Daganiya Raipur, Civil And Revenue District Raipur Chhattisgarh.
3. Manager (Human Resources) -6, Chhattisgarh State Power Holding Company Limited Danganiya Raipur, Civil And Revenue District Raipur Chhattisgarh.

---- Respondent

For Petitioner : Shri Vaibhav Goverdhan, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**C A V Order****Passed on** :07/09/2015

1. The petitioner has assailed the order dated 20.11.2014 passed by the respondents rejecting his prayer for grant of compassionate appointment.
2. The petitioner's father was in the service of erstwhile M.P. Electricity Board. He died in harness on 6.3.99 while he was posted as Administrative Officer in the office of Superintendent Engineer (O/M)

Circle Ambikapur. The petitioner had moved application for grant of compassionate appointment on 11.2.2002.

3. When the petitioner's application was not considered by the respondents in view of the policy dated 28.2.2004, the petitioner preferred Writ Petition No.1364/2004, which was disposed of by this Court with the following direction:-

“The petitioner's father was working at Ambikapur, which falls in the territorial jurisdiction of newly created CSEB, as such, as per above order of the Union of India the services of the petitioner's father stands allocated to the respondent CSEB and as the petitioner's father died in harness on 6.3.1999 while serving the respondent MPSEB and at that time policy dated 30.1.1997 was in force, therefore, as has been held by this Court in order dated 20.6.2006 passed in WP No.1126/03 the petitioner's case has to be considered according to the policy in force at the time of death of the petitioner's father i.e. policy dated 30.1.1997 and it is made clear that the policy dated 28.2.2004 is not applicable in the case of the present petitioner.

Accordingly, the petition of the petitioner is disposed of with the direction that respondent-CSEB to consider the case of the petitioner for compassionate appointment in accordance with the policy dated 30.1.1997 within a period of six months.”

4. Challenging the above order, the respondents preferred SLP(C) No.19197/2006 and other connected matters which was dismissed by a common order dated 26.8.2014 directing the respondents to consider the petitioner's application for appointment on compassionate ground within a period of 3 months.
5. The impugned order has been passed pursuant to the said orders of the High Court and the Supreme Court. In terms of the said order, the petitioner was required to be considered in terms of the policy

dated 30.1.1997.

6. The policy dated 30.1.1997 has been annexed with the writ petition. Clause-6 of the policy clearly provides that the dependent of the deceased employee has to submit application in the office where the deceased was working within one year from the date of death, with further stipulation that application received after one year shall not be considered.

7. In the matter of **Shreejith L. Vs. Deputy Director (Education)**

Kerala and others¹ the Supreme Court has held thus:-

“**18.** There is considerable merit in the contention urged by Mr Rajan. It is not in dispute that Respondent 1 had attained majority on 8-5-1995 whereas the application for compassionate appointment was made on 10-9-2007. This application was, on the face of it, beyond the period stipulated in the scheme for making such a claim. The High Court appears to have confused an application required to be filed within the period stipulated for the purpose with the availability of a vacancy against which such an application could be considered by the Manager. These were two distinctly different matters. What was important was the making of an application for appointment on compassionate basis within the period stipulated for the purpose. Whether or not a vacancy is available had nothing to do with the making of the application itself.”

8. In the case at hand, there is no dispute that the petitioner's father died on 6.3.1999 whereas the application was preferred on

¹ (2012) 7 SCC 248

11.2.2002 i.e. nearly after 2 years and 11 months. Thus the application was not worth consideration in view of clause-6 of the policy dated 30.1.1997.

9. The respondents have not committed any illegality in rejecting the petitioner's application for grant of compassionate appointment.

10. Accordingly, the writ petition being bereft of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

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