

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4226 of 2012**

- Lawkeshwar Chouhan S/o Lt Itwari Prasad Chouhan Aged About 26 Years R/o Banipathar, Tah Kharsia, C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Panchayat & Rural Development Deptt, Mantrayaa, D.K.S. Bhawan, Raipur, C.G.
2. The Collector Raigarh, District Raigarh, C.G.
3. The Assistant Commissioner Tribal Development, Raigarh, C.G.
4. The Chief Executive Officer Janpad Panchayat Kharsia, Distt Raigarh, C.G.

---- Respondents

For Petitioner:

None.

For State/Respondent No.1,2 &3:

Mr. Ashok Swarnkar, Panel Lawyer

Respondent No.4:

Mr. Pankaj Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****23.12.2015**

1. Challenge in the present Writ Petition is to the order dated 26.09.2011 (Annexure P/9) whereby the claim of compassionate appointment of the Petitioner was rejected.
2. The fact of the case is that father of the Petitioner was working with Respondent No 5 who died in harness on 22.06.1997. According to the Petitioner when his father died he was a minor and after attaining the age of majority he applied to the Respondent on 20.01.2004 and thereafter he moved another application on 05.07.2005 and subsequently, he filed a Writ Petition i.e. W.P. (S) No. 4747/2011 which was disposed of on 19.08.2011 with a direction that the Petitioner shall make a representation to the Respondent, who in turn

shall decide the same. The Respondent State has then vide impugned order dated 26.09.2011 rejected the claim of the Petitioner holding that since the death of father of the Petitioner was prior to 01.11.1997 therefore the case of the Petitioner do not fall within the Scheme of Compassionate Appointment of the State Government.

3. Admittedly, the Petitioner's father died on 22.06.1997 which is not within three years prior to the State of Chhattisgrah being carved out. The policy decision that the State Government has undertaken is to consider cases of compassionate appointment in respect of those applicants wherein the deceased Government employee had died within three years prior to the formation of State of Chhattisgarh i.e. in between 01.11.1997 to 01.11.2000. In the instant case indisputably the father of the Petitioner died on 22.06.1997 i.e. before 3 years' period fixed for consideration of compassionate appointment by the Respondent State.
4. In the given facts and circumstances of the case this Court is of the opinion that there is no infirmity on the part of the State Government while rejecting the claim of the Petitioner. Even otherwise, fact remains that father of the Petitioner died on 22.06.1997 and first Writ Petition was filed in the year 2011. The Petitioner could sustain himself for all this period itself proves that he had sufficient source for his survival and he is not facing any penury or financial crisis.
5. 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-19 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.”

6. 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.”

7. Considering the total facts and circumstances of the case and also relying upon the decisions of the Supreme Court cited above this Court does not find any merit in the present Writ Petition and accordingly being devoid of merit the Writ Petition is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE