

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3088 of 2015**

- Smt. Subhadra Jha W/o Late Shri Vijay Jha Aged About 50 Years
- Shashank Jha S/o Late Shri Vijay Jha Aged About 28 Years

Both R/o Sahdeo Nagar, Near Badouriya Nursing Home, Rajnandgaon,
District Rajnandgaon, (Chhattisgarh)

---- **Petitioner****Versus**

1. State of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. Superintendent of Police, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)

---- **Respondents**

For Petitioners	:	Shri Pawan Shrivastava, Advocate on behalf of Shri TK Tiwari, Advocate
For Respondents-State	:	Shri Bhaskar Payashi, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****15/09/2015**

1. Petitioners have assailed the legality and validity of the order Annexure P-1, whereby the Superintendent of Police, Rajnandgaon has rejected the prayer made by the petitioner No.2 Shashank Jha for grant of compassionate appointment.
2. Father of petitioner No.2 was working as Constable from 21-11-1982. His father was missing since 2003. When he could not be traced, an FIR was lodged and eventually a declaration of his civil death was issued, after which

a death certificate was issued mentioning the date of death as 25-7-2013.

3. Application of the petitioner No.2 for grant of compassionate appointment has been rejected on the ground that his elder brother is already working as a Constable, therefore, he is not entitled for employment.
4. In the matter of **State of H.P. And Others v. Rajesh Kumar** (2001) 9 SCC 174 and **SAIL and Another v. Awadesh Singh and Others** (2001) 10 SCC 621, the Supreme Court has held that when one member of family is already in service, rejection of prayer for compassionate appointment is justified.
5. Learned counsel for the petitioners would submit that the elder brother of the petitioner No.2 has been separated from the family, therefore, this finding is incorrect. He would also submit that while making enquiry about joint residence with his elder brother, the respondents have not provided any opportunity of hearing.
6. The enquiry to find as to whether any other member of the family is employed and is residing with the applicant is only to ascertain the eligibility. It is not an enquiry wherein the petitioner is entitled for opportunity of hearing. In the present case, petitioner has not submitted any proof to indicate that brother of the petitioner No.2 is residing separately.
7. In the considered opinion of this Court, the impugned order does not suffer from any infirmity. Accordingly, the writ petition is dismissed.

Sd/-

Judge

Ashu

Prashant Kumar Mishra