

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No. 1492 of 2015**

- Yashwant Kumar Gagda, Aged About 23 years, S/o Late Lachhinder gagda, R/O Dumartarai, Post Babulbai, Thana, Tahsil And Distt. Narayanapur

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh, Through Secretary, Schedule Tribe And Schedule Caste Development Department, Mantralaya, Raipur
2. Assistant Commissioner, Tribal Development, Dantewada
3. The Collector, South Bastar, Dantewada

**---- Respondents**

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| For Petitioner       | : Shri Parag Kotecha, Advocate |
| For Respondent/State | : Shri Mazid Ali, Panel Lawyer |

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**29/04/2015**

1. Petitioner is aggrieved by the respondents refusal to allow his application for grant of compassionate appointment on account of death of his father in harness on 09/09/2003.
2. Admittedly, at the time of death of his father, the petitioner was a minor. Petitioner submits that the application was submitted immediately after attaining majority, therefore, it should not have been rejected on the ground that the same has not been submitted within three years from the date of death of his father.
3. It is a trite law that appointment on compassionate ground is not a method of recruitment, but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment.

4. In *Haryana State Electricity Board and another vs. Hakim Singh*<sup>1</sup> the Supreme Court held that "the whole object of any compassionate appointment schemes is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning members."

5. The Supreme Court in *State of J & K and others Vs. Sajad Ahmed Mir*<sup>2</sup>, in para 11 has held as under:

"11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should not be departed from except where compelling circumstances demand, such as, death of the sole bread winner, the family survived and the family suffering because of the setback. Once it is proved that inspite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

6. Relying on the above referred judgment of Supreme Court, this Court has taken a view in the matter of *Sarfaraj Ahmed Vs. State of Chhattisgarh and others*, W.P.(S) No. 3281/2014 decided on 22/07/2014 that if the family members could survive for about 10 years without employment and thus they were able to sustain the penury, the reason for compassionate appointment being for providing immediate succor to the family, does not subsist. Therefore, prayer for compassionate appointment, which is an exception to the competitive mode of employment, is not permissible.

7. For the foregoing, the petition being bereft of any substance, it deserves to be and is hereby dismissed.

J U D G E

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1 (1997) 8 SCC 85

2 2006 (5) SCC 766