

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Review Petition No. 145 of 2014

Purushottam, s/o late Shri Girdhari, aged about 30 years, H.No. 48,
Bidhyatola, Dongargarh, tahsil Dongargarh, district Rajnandgaon
C.G.

---- Petitioner

Versus

1. Union of India, through its General Manager, South East Central
Railway, Nagpur (Maharashtra) Pin Code 440001
2. The Divisional Manager, South East Central Railway, Nagpur
(Maharashtra) Pin Code 440001
3. The Senior Divisional Personnel Officer, South East Central Railway,
Nagpur (Maharashtra) Pin Code 440001
4. The Divisional Personnel Officer, South East Central Railway, Nagpur
(Maharashtra) Pin Code 440001
5. Central Administrative Tribunal, Jabalpur (M.P.)

---- Respondents

For Petitioner	: Shri Anand Dadariya, Advocate.
For Respondents	: Shri H.S. Ahluwalia, Advocate.

**Hon'ble Shri Navin Sinha, Chief Justice &
Hon'ble Shri Justice Prashant Kumar Mishra**

Order On Board

Per Navin Sinha, C.J.

24/04/2015

1. I.A. No. 01 of 2014 has been filed to condone delay of approximately 172 days in filing the review application.
2. We have considered the submissions on behalf of the parties. Our attention has also been invited to the order dated 8.9.2014 in S.L.P. (Civil) No. 14130 of 2014. We are satisfied to order that the delay be condoned.
3. The Petitioner seeks review of order dated 31.03.2014 in Writ Petition (S) No. 7112 of 2011. The Division Bench set aside the order of the Central Administrative Tribunal, Jabalpur Bench directing compassionate appointment of the Petitioner.
4. Learned Counsel for the Petitioner submits that the circular dated 20.01.1992 placing reliance on which the Division Bench set aside the order of the Tribunal had itself been earlier set aside by the Tribunal in O.A. No. 259 of 2009 noticed in the subsequent order of the Tribunal at paragraph 10. The Division Bench committed an error of record in not noticing the same and in relying upon a circular which already stood set aside. Liberty has been granted by the Supreme Court to move in the review jurisdiction.
5. Learned Counsel for the Respondents opposing the

application submitted that the Petitioner had no vested right to compassionate appointment. The claim itself was misconceived founded on a misconduct in service. He next submits that the right to compassionate appointment and the right to inheritance as the heir of the deceased born from a second marriage, are completely distinct issues.

6. The father of the Petitioner died in service in 2003. The Petitioner moved the Tribunal in the year 2011. The submission that he was fighting a Succession case in the meantime, does not impress us. It is apparent that he had no difficulty in surviving for nine long years. Compassionate appointment is provided to bring immediate succor to the family of the deceased due to sudden death of the breadwinner. There can be no urgency for compassionate appointment nine years after the death of the deceased.

7. Learned Counsel for the Respondents has rightly submitted that the issue for inheritance is completely distinct from a claim for compassionate appointment. A claim for compassionate appointment being an exception to Article 14 of the Constitution of India, it can be made only and strictly in accordance with the policy regulating the same. If the circular dated 20.01.1992 provided that appointment on compassionate grounds to the children born from the second wife are not to be considered unless the administration had permitted the second marriage taking into account the personal law etc., prohibits consideration of such claims except if the

conditions are fulfilled. Quite apparently, if a second marriage was solemnized by the father of the Petitioner without permission it constitutes misconduct. No claim for compassionate appointment can be founded on a cause of action originating in misconduct.

8. In the entirety of the facts and circumstances of the case, we do not find any reason to review the order dated 31.03.2014.

9. The review application is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(Prashant Kumar Mishra)
JUDGE