

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 1772 of 2015**

- Nawal Prasad Sharma, son of late Shri Ramu Prasad Sharma, aged about 45 years, resident of Village – Amakherwa, Post Office-Manendragarh, Tahsil-Manendragarh, District Koriya (C.G.)

---- Petitioner

**Versus**

1. State Of Chhattisgarh Through – The Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)
2. The Collector, District -Koriya at Baikunthpur (C.G.)

---- Respondents

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For Petitioner : Shri Subhash Yadav, Advocate.

For Respondents/State : Shri Avinash Singh, Panel Lawyer.

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****15/12/2015**

(1) With the consent of learned counsel appearing for the parties, the matter is heard finally.

(2) Shri Ramu Prasad Sharma while working as Chain Man in the Collectroate, Koria died in harness on 05.10.2001. The petitioner filed an application for appointment on compassionate ground claiming that he is the adopted son of Late Shri Sharma and also filed an unregistered adoption deed dated 17.08.2001.

(3) The Collector, Koria by its order dated 06.01.2014 rejected the application holding that the adoption deed is unregistered deed and age of the petitioner, on the date of death of Shri Sharma, was less than 15 years and therefore, the petitioner is

not entitled for compassionate appointment, against which the instant writ petition has been filed by the petitioner.

(4) Learned counsel for the petitioner submits that order passed by respondent No. 2/Collector is unsustainable and bad in law, as the adoption deed clearly records that the petitioner was adopted by Late Shri Sharma during his life time as his son in accordance with law and, as such, he is entitled for compassionate appointment.

(5) *Per contra*, Shri Avinash Singh, learned counsel for the State while opposing the writ petition would submit that the petitioner is not entitled for compassionate appointment and his application for compassionate appointment has rightly been rejected by the respondent No. 2/Collector, Korla.

(6) I have heard learned counsel appearing for both the parties and considered their rival submissions with utmost circumspection.

(7) The petitioner has filed adoption deed dated 17.08.2001 before this Court whereas Shri Sharma died on 05.10.2001; adoption deed is unregistered as age of the petitioner has been shown to be 25 years and the said adoption deed recites that Late Shri Sharma took the petitioner on adoption 10-15 years prior to the date of execution of adoption deed dated 17.08.2001. Thus, it appears from the adoption deed that the age of the petitioner was less than 10 years on the date of adoption.

(8) Fact remains that the petitioner has failed to prove the factum of adoption by deceased- Government employee as the respondent No. 2/Collector, Korla has clearly recorded a finding that the petitioner has failed to prove his age to be less than 10 years on the date of adoption.

(9) Keeping in view that the factum of adoption is a disputed question of fact and it can not be decided in a writ petition filed under Article 226 of the Constitution of India, therefore, instant writ petition can not be entertained at this stage. However it is open for the petitioner to establish the factum of adoption before the jurisdictional Civil Court and depending upon the outcome of the result of the Civil Court, the petitioner is free to proceed in accordance with law for compassionate appointment before the respondent No. 2/Collector, Korla.

(10) With the aforesaid observations, the writ petition stands disposed off. No order as to cost (s)

Sd/-  
(Sanjay K. Agrawal)  
Judge

D/-