

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1331 of 2013**

Smt. Smita Gupta W/o Lt Sandeep Gupta Aged About 33 Years R/o Anupam Nagar, House No. 14, Rajnandgaon, Distt Rajnandgaon, C.G.

---- Petitioner

Versus

Chhattisgarh Gramin Bank S/o Through The General Manager (Administration), Head Office, Raipur, Dist Raipur, C.G.

---- Respondent

For Petitioner	:	Shri Neeraj Choubey, Advocate
For Respondent	:	Shri B.D. Guru, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****11/09/2015**

1. Grievance of the Petitioner is that the respondent establishment rejected the claim of compassionate appointment of the Petitioner on the ground that the service of Petitioner's husband was not regular employment with the Respondent.
2. Facts of the case is that the husband of the Petitioner was appointed with the Respondent on 03.11.2011 as Office Assistant. Barely 3 month later husband of the Petitioner on 13.01.2012 has expired. Subsequent, to the death of deceased husband the Petitioner claimed for compassionate appointment but the Respondent under its own policy for compassionate appointment/ex-gratia payment, dated 29.12.2008, rejected the application for compassionate appointment on 17.05.2012 stating that the husband of the Petitioner since was not a regular employee of the Bank the claim of the Petitioner could not be accepted and therefore accordingly rejected.

3. The Counsel for the Respondent states that there the Scheme of Compassionate Appointment/Grant of Ex-gratia payment in the event of death of employee of the Respondent Bank several reliefs are given to the beneficiaries. In the said definition employee have been defined as regular employees working with the Respondent Bank, which admittedly the husband of the Petitioner was not a regular employee of the Respondent Bank. In fact of the same since the Petitioner's husband was not regular employee she could not have been considered for grant of compassionate appointment.

4. In the Case of **2004 (2) SCC 130** the Supreme Court held as under:-

“We have no doubt in our mind that sympathy or sentiment by itself cannot be a ground for passing an order in relation whereto the appellants miserably fail to establish a legal right. It is further trite that despite an extraordinary constitutional jurisdiction contained in Article 142 of the Constitution of India, this Court ordinarily would not pass an order which would be in contravention of a statutory provision”.

5. Compassionate appointment can only be given in case if there is a Scheme for the same. Further, the Scheme should also specify as to who will be eligible under the Scheme. In the Case of **2009 (11) SCC 453** the Supreme Court held as under:-

“Appointment on compassionate grounds must be made keeping in view provisions contained in Articles 14 and 16 of the Constitution. Such schemes cannot be given an expansive meaning as the constitutional scheme envisages that all persons who are entitled to be considered for appointment would be eligible for being considered therefor. Any policy decision for appointment on compassionate grounds must, therefore, receive a strict construction.

A circular letter providing for appointment on compassionate grounds in case of death of a government servant cannot be extended in case of the dependants of the deceased who was

not a government servant. Public employment must be offered to a person who is entitled therefor. All recruitments subject to just exceptions must be made in terms of the rules framed under Proviso to Article 309 of the Constitution.”

6. Accordingly, the present Writ Petition being devoid of merit is rejected.

Sd/-
P. Sam Koshy
Judge