

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 633 of 2015**

Swatantra Ratna Panigrahi S/o Shri Khemeshwar Panigrahi, Aged About 20 Years, R/O Village Kumhali, Post Office Kumhaoi, Police Station and Tahsil Lohandiguda, District Bastar (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat and Rural Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, (C.G.)
2. The Collector (Tribal Development) Bastar at Jagdalpur, District Bastar (C.G.)
3. The Assistant Commissioner, Tribal Development, Jagdalpur, District Bastar (C.G.)
4. The Chief Executive Officer, Zila Panchayat, District Bastar (C.G.)
5. The Chief Executive Officer, Janpad Panchayat, Lohandiguda, District Bastar (C.G.)
6. The Block Education Officer, Lohandiguda, District Bastar (C.G.)

---- Respondents

For Petitioner	:	Mr.Subhash Yadav, Advocate
For Respondents	:	Mr. Yashwant Singh Thakur, Dy.Advocate
No.1 to 3/State		General with Mr.Sangrash Pandey, Dy.Govt.Advocate
For respondent No.4	:	None present
For respondent No.5	:	Mr.Akhilesh Kumar, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****26/10/2015**

1. By this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for issuance of direction to respondent authorities for consideration of his case for compassionate appointment in accordance with circular dated 14.6.2013.

2. Petitioner's mother Leelawati while working as Assistant

Teacher (Panchayat) in Primary School, Durkiguda (Chhindgaon) died in harness on 23.7.2011. The petitioner being son of deceased Leelawati Panigragi made an application for appointment on compassionate ground. The Collector, Bastar by its order dated 1.2.2014 rejected the application of the petitioner holding that father of the petitioner is already in government service and therefore, he is not entitled for compassionate appointment.

3. Being dissatisfied and aggrieved against the order rejecting his case for compassionate appointment, the present writ petition has been filed stating inter-alia that there is no ban or bar in the policy of the State Government dated 14.6.2013 for appointment of the petitioner on compassionate ground that his one of the family member is already in service and therefore, he is entitled for compassionate appointment.

4. Return has been filed opposing the writ petition stating inter-alia that father of the petitioner is Assistant Teacher in Tribal Department and as such, he is not entitled for compassionate appointment.

5. Mr.Subhash Yadav, learned counsel appearing for the petitioner would submit that policy decision of the State Government does not bar the petitioner to be appointed on compassionate ground merely because his one of the family member/parent is already holding government post and getting sufficient means to run the family and as such, rejection of his application on the ground that his father already in government service is contrary to the policy and deserves to be set aside and suitable writ be issued directing the respondent authorities particularly respondents No.2 & 3 to consider the case of the petitioner

in accordance with law for such appointment.

6. Mr.Yashwant Singh Thakur, learned Deputy Advocate General for the respondents No.1 to 3/State would submit that father of the petitioner being an employee and earning sufficiently to maintain his family and as such, compassionate appointment has rightly been refused by the respondent No.5.

7. Mr.Akhilesh Kumar, learned counsel appearing for respondent No.5 would submit that application of the petitioner for compassionate appointment was examined by respondent No.5 and decision has been taken on 1.2.2014 (Annexure R/2) finding that the father of the petitioner is working as Assistant Teacher in District Bastar and as such, instruction was sought from the State Government and respondent No.5 vide its letter dated 5.2.2014 has already instructed that at present father of the petitioner is already in service and therefore, the petitioner is not entitled for compassionate appointment.

8. I have heard learned counsel appearing for the parties and perused the record with utmost circumspection.

9. It is not in dispute that mother of the petitioner while working as Assistant Teacher (Panchayat) in Primary School, Durkiguda (Chhindgaon) died in harness on 23.7.2011. It is also not in dispute that father of the petitioner is working as Assistant Teacher in Government School at present and getting salary and allowances as per his entitlement.

10. It is correct to say, policy of the State Government dated

14.6.2013 (Annexure P/10) would indicate that there is no such express bar contained in the policy to hold that if one of the relatives/parents of the person claiming compassionate appointment is already in service, then such a claim is not entitled to be considered for compassionate appointment, but law in this regard is well settled 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 crises and is not to provide employment and it is not a source of appointment.

11. In a very recent judgment in the case of **Canana Bank & Anr v. M.Mahesh Kumar¹**, their Lordships of the Supreme Court have outlined the factors to be borne in mind while considering a claim for employment on compassionate ground. Paragraph 20 of the report states as under:-

“20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as

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a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Classes III and IV posts."

12. It is quite vivid that father of the petitioner is already in government service and as such, merely because the policy is silent in this regard, the petitioner is not entitled for compassionate appointment as father being in service and having sufficient means to meet both the ends and keeping in view the law laid-down by the Supreme Court in the case of **Canara Bank** (supra) as the appointment on compassionate ground is not a source of recruitment. Thus, the respondent No.5 is absolutely justified in rejecting the claim of the petitioner holding that he is not entitled for compassionate appointment.

13. Consequently, the writ petition being without substance is liable to and is accordingly dismissed. No order as to cost (s).

**Sd/-
(Sanjay K. Agrawal)
JUDGE**

B/-