

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No. 519 of 2009**

Mohd. Siddik Ansari S/o Late Mohd. Shahanshah Ansari, aged about 29 years, Occupation unemployed, C/o Haji Abdul Gafar Rahim, Retired Head Master, Telibandha, Molipara Post Ravigram, Raipur (C.G.)

---- Petitioner**Versus**

1. State of Madhya Pradesh through Principal Secretary, Forest Department, Mantralaya Vallabh Bhawan, Bhopal (M.P.)
2. State of Chhattisgarh through Principal Secretary, Forest Department, Mantralaya, Dau Kalyan Singh Bhawan, Raipur (C.G.)
3. Chief Conservator of forests, Raipur (C.G.)
4. Divisional Forest Officer, Forest Production Division, Rajnandgaon (CG)

---- Respondents

For Petitioner	:	Shri A. S. Rajput, Advocate
For Respondent/State:		Shri Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****15/02/2016**

The present petition has been filed challenging the order dated 24.01.2007 (Annexure P-1) whereby the claim of the petitioner for grant of compassionate appointment has been rejected.

2. The facts relevant for disposal of the petition are that the father of the petitioner serving as Forest Guard died in harness on 08.07.1993. According to the petitioner, after death of his father, his mother moved application for grant of compassionate appointment to the respondent department. The respondents on due consideration of the claim application issued an order on 16.07.1999 Annexure P-3 whereby it was offered that the

petitioner can be granted compassionate appointment on the post of cleaner which was refused by the petitioner on the ground that they should be granted employment either on the post of Forest Guard or LDC as the petitioner is a qualified person. The petitioner thereafter went on making correspondence with the authorities and ultimately he again made a representation to the respondents on 18.01.2007 which was rejected by the respondents by the order dated 24.01.2007 which is under challenge in the present writ petition.

3. State counsel submits that the petition suffers from inordinate delay and the delay has not been explained by the petitioner. He submits that the present writ petition was filed on 21.01.2009 i.e. after more than 15 years from the date of death of the employee and after more than 9 years from the date the petitioner was offered appointment on the post of cleaner and there is no proper explanation given on the part of the petitioner for the delay caused. State counsel further submits that earlier also the claim of the petitioner was refused by the order dated 22.07.2003 Annexure P-10 which has been enclosed with this petition and the petitioner had not thought it fit for challenging the said order in the year 2003 and the present writ petition has been filed also after more than five years of rejection of his claim in the year 2003.

4. The law in respect of compassionate appointment is by now well settled to the extent that the claim for compassionate appointment can never be made for a particular post or a particular place of posting. The object for grant of compassionate appointment is to tide over the financial hardship of the family of the

deceased employee. The intention of the employer for providing compassionate appointment is to see that the family of the deceased employee does not face penury or destitute.

5. In a *catena* of decisions of the Hon'ble Supreme Court whereby it has been held that compassionate appointment has to be considered by the employer immediately after the death of the deceased employee and the claim for compassionate appointment has to be promptly raised by the claimant and it cannot be raised at a belated stage. The purpose of providing appointments on compassionate ground is to mitigate the sudden hardship faced due to death of the bread-earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress. Care has, however, to be taken that provision for ground of compassionate employment which is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependent of the deceased employee. As it is in the nature of exception to the general provisions, it cannot substitute the provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision. 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.

6. The Supreme Court in a recent decision reported in **(2012) 13 SCC 412** (Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh) reiterating the above given legal positions in paragraph-18 has held as under:

“18. The very object of making provision for appointment on compassionate grounds, is to provide succour to a family dependent on a government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole breadwinner. Delay in seeking such a claim is an antithesis for the purpose for which compassionate appointment was conceived. Delay in raising such a claim is contradictory to the object sought to be achieved.”

7. Further in Paragraph-19 also the Supreme Court in very categorical terms while restricting the scope of interference in a petition for compassionate appointment has held as under:

“19. The courts and tribunals should not fall prey to any sympathy syndrome, so as to issue directions for compassionate appointments, without reference to the prescribed norms. The courts are not supposed to carry Santa Claus's big bag on Christmas eve to disburse the gift of compassionate appointment to all those who seek a court's intervention. The courts and tribunals must understand that every such act of sympathy, compassion and discretion wherein directions are issued for appointment on compassionate grounds could deprive a really needy family requiring financial support, and thereby, push into penury a truly indigent, destitute and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion.”

8. Further in the case of Local Administration Department and another v. M. Selvanayagam alias Kumaravelu the Apex Court has held as under:

“Ideally, the appointment on compassionate basis should be made without any loss of time but having regard to the delays in the administrative process and several other relevant factors such as the number of already pending claims under the scheme and availability of vacancies, etc.

normally the appointment may come after several months or even after two to three years.”

9. The Supreme Court in recent past in AIR 1997 SC 3887 (Haryana State Electricity Board and another v. Hakim Singh), AIR 1998 SC 2613 (K. I. Pavunny v. Asstt. Collector, Cochin), (2000) 7 SCC 192 (Sanjay Kumar v. State of Bihar and others) and (2003) 7 SCC 511 (State of Manipur v. Md. Rajaodin) dealing with the same issue has taken a consistent view as enunciated in the preceding paragraphs of this order.

10. Considering the total facts and circumstances of the case and also relying upon the decisions of the Supreme Court cited above, this Court is of the opinion that no good case is made out for interfering with the petition for grant of compassionate appointment to the petitioner at such a belated stage nor has the petitioner any right for claiming appointment on a particular post. The present petition deserves to be rejected only on the ground of unexplained inordinate delay and laches in approaching the Court for redressal of his grievance when the same pertains to compassionate appointment.

11. Accordingly, the present writ petition is rejected.

Sd/-
(P. Sam Koshy)
JUDGE