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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3455 of 2010**

Vijay Kumar Prajapati S/o Late Shri Sadhu Sharan Prajapati, aged 35 years, R/o village Godhanpur, Tehsil & P.S. Ambikapur, District Surguja, C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh, through the Secretary, Revenue Department, D.K.S. Bhawan, Raipur, C.G.
2. The State Of M.P. Through The Secretary, Revenue Department, Bhopal (M.P.)
3. The M.P. State Road Transport Corporation. Through Its Managing Director, Head Officer At Habibganj, Bhopal (M.P.)
4. Up Maha Prabandhak (Karmik) M.P. State Road Transport Corporation, Bhopal (M.P.)
5. Collector Surguja, Ambikapur, Distt.-Surguja (C.G.)
6. Chhattisgarh Adhoshanrachna Vikas Nigam, At & Post Raipur, Distt.-Raipur (C.G.)

---- Respondents

For Petitioner:
For State:

Mr. C.J.K. Rao, Advocate
Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10.03.2016**

1. This is third round of Writ Petition on behalf of the Petitioner.
2. Facts relevant for disposal of the present Writ Petition is that the father of the Petitioner was an employee working with the Madhya Pradesh State Road Transport Corporation at Balodabazar Depot of erstwhile State of Madhya Pradesh which is now falling in the territory of State

of Chhattisgarh.

3. The father of the Petitioner died in harness on 31.3.1998. Thereafter, immediately the Petitioner moved an application for grant of compassionate appointment before the erstwhile Madhya Pradesh State Road Transport Corporation in the year 1998 itself. But, since the Respondent did not take any positive action, the Petitioner filed the Writ Petition, registered as W.P. No. 5021/1999 which was decided on 06.03.2006, wherein this Court disposed the Writ Petition with the only observation that the Petitioner should make a fresh representation before C.I.D.C (Chhattisgarh Infrastructure Development Corporation)/ Respondent No.6 and the Respondent No.6 shall take a decision on the representation within a period of 6 weeks from the date of receipt of the fresh representation. The Respondent authorities vide their order Annexure P/11 dated 8.6.2006 rejected the representation. Against the said rejection order the Petitioner again preferred Writ Petition which was registered as W.P. (S) 4974/2006. During the course of hearing of the said Writ Petition on 30.07.2008, Learned Counsel representing C.I.D.C (Chhattisgarh Infrastructure Development Corporation) submitted that order dated 8.6.2006 on the representation was not properly passed and he sought liberty to pass a fresh order on the representation of the Petitioner and accordingly on 30.7.2008 the said Writ Petition was disposed.
4. Subsequently, in compliance of the order dated 30.7.2008, Respondent No. 6 again on 22.9.2008 decided the representation of the Petitioner and rejected the same holding that firstly the scheme of compassionate appointment has not been made enforceable by the

State of Chhattisgarh in any of the Corporation, Board or Tribunal constituted within the State of Chhattisgarh, therefore, the Petitioner would not be entitled for compassionate appointment.

5. Learned Counsel at this juncture submits that the ground taken for rejection by the Respondent is totally misconceived and is arbitrary. That the Respondent authority ought to have borne in mind the Scheme of compassionate appointment which was in vogue on the date of the death of the deceased employee that is in the year 1998 and that they ought not to have brought in to force the subsequent circulars of the State Government for compassionate appointment that the Scheme for compassionate appointment is not applicable on the Corporation, Board or Tribunal in the State of Chhattisgarh.
6. Learned Counsel representing the State submits that admitted position in the factual matrix of the case is that date of death of deceased employee took place in March' 1998 and that today we are in March' 2016 that is a time period of about 18 years have passed from the date of death of the deceased employee and if the Petitioner could sustain himself for all these 18 years, the very term 'Compassion' loses its efficacy for seeking employment with the Respondents.
7. The Scheme of compassionate appointment is introduced to tide over the immediate dire financial crisis the family of the deceased employee faces on the death of the deceased employee. In the teeth of litigation for a considerable long period in the opinion of this Court issuing compassionate appointment at such a belated stage does not seem to be proper and legal. Compassionate appointment must be given to a family member of the deceased employee so as to ensure

that the family of the deceased employee does not face a stage of penury or financial crisis. In the present case if the Petitioner is able to tide over well the period of about 18 years, the grant of compassionate appointment now would not be proper. Compassionate appointment is an exception to the general rule of appointment and the scheme framed regarding employment.

8. The law in this regard is well settled 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 considered and not at a belated stage. The purpose of providing appointments on compassionate ground is to mitigate the hardship caused due to the sudden 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 being 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.

9. 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.”

10. 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.”

11. Considering the factual matrix of the case that the Petitioner has been able to survive and sustain himself for about 18 long years from the date of the death of the deceased employee, the grant of

compassionate appointment with the Respondents at this stage would not be proper.

12. Accordingly, the Writ Petition on this ground alone is rejected. No order as to cost.

Sd/-
(P. Sam Koshy)
JUDGE