

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO. 545 OF 2011

Balram Chauhan, S/o Shri Shyam Kumar Chauhan, (adopted son of Late Asharam Chauhan, aged about 20 years, R/o Village & Post Barbhata (Malkhaurada) District Janjgir-Champa (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of School Education, D.K.S. Bhawan Mantralaya, Raipur (C.G.)
2. District Education Officer, District Janjgir-Champa (C.G.)

... Respondents

For Petitioner	:	Mr. Deepak Kumar Singh, Advocate.
For Respondents	:	Mr. Anil S. Pandey, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/03/2016

1. Challenge through the present writ petition is to the order dated 23.8.2010, Annexure P-1, whereby the representation/appeal against the earlier rejection of application of the Petitioner for grant of compassionate appointment on 1.7.2010 was reiterated and affirmed.
2. Facts relevant for adjudication of the present writ petition are that the deceased employee in the instant case was one Asharam Chauhan who died in harness on 7.10.2009 while working with the Respondents. It is said that subsequently the Petitioner, claiming to be an adopted son of the deceased employee, claimed for compassionate appointment on 16.2.2010 which was initially rejected on 1.7.2010 on the ground that the Petitioner has not been able to establish and prove that he was an adopted son of the deceased employee, Asharam Chauhan. Against the said rejection of his application for grant of compassionate appointment, the Petitioner again preferred an appeal/representation to the District

Education Officer who in turn again reconsidered the case of the Petitioner and reached to the same conclusion vide impugned order dated 23.8.2010.

3. Counsel for the Petitioner submits that though admittedly there was no adoption deed in favour of the Petitioner to establish that he was an adopted son of the deceased employee but the fact that in the service details available in the office of the Respondents in the nomination form, the name of the Petitioner does reflect showing him to be the adopted son of the deceased employee. He further submits that the said document bears the signature of the officer of the Respondents themselves which itself ought to have accepted as a proof establishing the Petitioner as an adopted son of the deceased employee. On this basis his case for grant of compassionate appointment ought to have been considered by the authorities. Therefore the rejection of the claim for grant of compassionate appointment is bad in law and is liable to set aside/quashed and a direction may be given to the Respondents for considering the case of the Petitioner for appointment on compassionate ground.

4. State Counsel on the contrary opposes the writ petition and submits that the scheme for compassionate appointment specifies that only the legal heirs of the deceased employee would be entitled for grant of compassionate appointment. That the Petitioner has not been able to show by any cogent proof that he was in fact the adopted son of the deceased employee so as to consider his case for grant of compassionate appointment and therefore the writ petition deserves to be dismissed.

5. Having considered the records available with the writ petition the admitted position is that in all the educational qualifications of the Petitioner, his father's name is reflected to be that of Shyam Kumar Chauhan who is in fact the biological father of the Petitioner. Apart from

this, there is no other document by which the Petitioner could establish the fact that he had been adopted during the life time of the deceased employee. Further, what is also apparent from the records that Annexure P-3 which is an adoption deed prepared by the wife of the deceased employee (namely, Phool Bai) again is a document which was prepared after the death of the deceased employee which further creates a great amount of doubt as to whether during the life time of the deceased employee any adoption had taken place adopting the Petitioner to be the son of the deceased employee.

6. The law so far as grant of compassionate appointment is concerned the same can only be granted to legal heirs of the deceased employee and cannot be extended to a person who is otherwise not eligible under the scheme. In the instant case since the Petitioner has not been able to establish himself as a proper adopted son of the deceased employee and the adoption deed enclosed with the writ petition also is of a date much after the death of the deceased employee, the rejection of the case for grant of compassionate appointment by the Respondents on the ground of the Petitioner not being able to establish himself as an adopted son of the deceased employee cannot be faulted at.

7. This Court does not find any infirmity in the order, Annexure P-1, passed by the Respondents. The writ petition in its given form fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge