

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1546 of 2011**

- Smt. Maan Bai Sinha, aged about 52 years, W/o Late M.L. Sinha R/o Bazarpara, Mandi Road, Kondagaon, Distt. Bastar

---- **Petitioner****Versus**

1. Food Corporation of India through its Director, Food Corporation of India, Anchalik Office, Mumbai-51, Maharashtra.
2. General Manager, Food Corporation of India, Regional Office, Raipur.
3. Regional Manager, Food Corporation of India, District Office, Durg.

---- **Respondents**

For Petitioner.	:	Shri Parag Kotecha, Advocate.
For Respondents	:	Shri B.P. Gupta, Advocate.

Hon'ble Shri Justice Pritinker Diwaker**Order On Board****23/11/2016**

1. The petitioner, widow of Late Mohan Lal Sinha, an employee of respondents has filed this petition seeking compassionate appointment for her major son. The petitioner has also prayed for payment of provident fund and gratuity along with interest @ 18% interest per annum. She has further prayed for fixation of pension.
2. In the reply filed by respondents, it has been submitted that retiral benefits of the deceased employee has already been paid to the petitioner and after completing all the formalities in relation to pension, documents have been forwarded to the Commissioner, Provident Fund, Delhi.
3. Learned counsel for respondents submits that by now the

petitioner may be receiving pension. In respect of compassionate appointment, it has been submitted that initially the daughter of the petitioner had applied for compassionate appointment and her claim was already rejected on 19.08.2008 by respondents vide Annexure R-1. It has been further submitted that after rejection of the petitioner's daughter claim for grant of compassionate appointment, the question of giving appointment to petitioner's son on compassionate ground does not arise. He submits that the deceased employee died on 11.08.2000; the family has been surviving for last 16 years and, therefore, the petitioner's son is not entitled for compassionate appointment.

4. Considering the fact that retiral benefits have already been paid to the petitioner and her case for pension had already been forwarded by respondents way back in July, 2012, no order can be passed in this regard at this stage especially when the Commissioner, Provident Fund has not been arrayed as party in the instant case.
5. If the pension of the petitioner has not been fixed, she would be at liberty to approach the said authority and in that event concerned authority to pass appropriate order in accordance with law within two months from the date of production of copy of this order, if not already passed.
6. So far as the claim of the petitioner regarding grant of compassionate appointment to her son is concerned, the same has no substance as the application filed by the petitioner's

daughter seeking compassionate appointment has already been rejected by the respondents. Moreover, the deceased employee died on 11.08.2000; the family has been surviving for about 16 years; retiral dues of the employee had already been given to the petitioner, and as such, the petitioner is not entitled for any compassionate appointment.

7. It is also well settled that compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the family members of the deceased employee. Its very object is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member and such consideration cannot be kept binding for years. The consideration for such employment is not a vested right, which can be exercised at any time in future, and compassionate appointment cannot be claimed and offered whatever may be the lapse of time after the crisis is over.
8. The Hon'ble Supreme Court while considering the matters relating to compassionate appointment has very categorically held that such appointment is an exception to the general rule of appointment in public office through competitive examination. Once it is proved that inspite of death of the breadwinner, the family survived and a substantial period is over, there is no need to make appointment on compassionate ground at the cost of interest of several others ignoring the mandate of Article 14 of

the Constitution.

9. Accordingly, the petition in respect of the same is dismissed.

Sd/-

(Pritinker Diwaker)
JUDGE

Vijay