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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 1616 of 2014

Rajaram S/o late Ram Khilawan, aged about 26 years, R/o Dabripara, Ward No.9, Baithakunth, PS & Tehsil Baikunthpur, Civil and Revenue District Koria (CG).

---- Petitioner

Versus

1. The State of Chhattisgarh through Secretary, Town Administrative (Nagariya Prashashan) Department, Mahanadi Bhawan, Mantralaya, New Raipur (CG).
2. Collector, Koria, Distt. Koria (CG).
3. Chief Municipal Officer, Municipal Council, Baikunthpur, Distt. Koria (CG).

---- Respondents

For Petitioner Shri Rahul Mishra, Advocate.
For Respondents/State Ms. Smita Ghai, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

15/01/2016

1. The petitioner through the present petition is challenging the order dated 30.07.2010 (Annexure P/1) whereby the claim of the petitioner for compassionate appointment has been rejected on the ground that widow of the deceased i.e. mother of the present Petitioner is a government servant, and therefore, the claim of the petitioner was not sustainable.

2. Counsel for the petitioner relying upon the decision of Supreme Court in

case of Haryana Public Service Commission Vs. Harinder Singh and another (AIR 1999 SC 551) submits that as the petitioner was dependent upon the deceased employee, the case of petitioner be considered for compassionate appointment.

3. After going through the records of the case, it would reveal that presently the petitioner is aged about 26 years and his father died on 02.10.1998 and at that point of time he was minor. The facts that mother of the petitioner is a government servant and the petitioner at the time of death of his father was minor being taken care by his mother are not in dispute. Only attaining the age of majority by itself would not give any right for compassionate appointment.

4. The law with regard to compassionate appointment stands well settled and judicial precedents on the principles abound. Nonetheless, claims without any substance or merit continue to be made, fall in the category of clear frivolous litigation burdening the Courts unnecessarily. The present is a classic case of a completely frivolous litigation for a claim regarding compassionate appointment seeking ways and means to find a Government job with the least effort through litigation rather than to compete for obtaining a secure employment in a competitive world.

5. Essentially, the petitioner seeks a back door appointment without having to face competition and doggedly pursues his claim for compassionate appointment notwithstanding the fact that it has no merit at all.

6. The Supreme Court in case of State of Gujarat and Others Vs. Arvindkumar T.Tiwari & Another (2012 (9)SCC 545) has held as under :

> "8. It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. As claim to be appointed on such a ground, has to be considered in accordance with the rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased. ….....however, before a candidate is considered for a post or even for admission to the institution, he must fulfill the eligibility criteria."

7. The same view has further been re-iterated by the Supreme Court in case of State of Uttar Pradesh and Others Vs. Pankaj Kumar Vishnoi (2013(11)SCC 178).

8. A claim for compassionate appointment is an exception to the constitutional mandate under Article 14 of the Constitution that all appointments in the Government or Semi-Government organizations must be made by open advertisement and competitive merit selection so as to provide equal opportunity to be considered to all who may be eligible, as employment in the Government constitutes a national wealth. A limited exception has been made to this principle by providing for compassionate appointment which is primarily aimed as a part of social constitutional philosophy of the Government to provide succor to the family of the deceased faced with sudden penury and destituteness due to untimely loss of the bread winner. It is therefore patent that there is always an urgency in a claim for compassionate appointment. If a claim is legitimately made within stipulated time and consideration is belated, different issues may arise for determination. Such is not the case presently.

9. It has repeatedly been held that compassionate appointment is not a

constitutionally sanctioned mode of appointment in Government service. Any claim therefore has to be strictly in terms of the policy or circulars regulating the same.

10. In *Haryana State Electricity Board and another vs. Hakim Singh*[1] the Supreme Court held that "the whole object of any compassionate appointment schemes is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning members."

11. 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."

12. 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

1 (1997) 8 SCC 85

> 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."

13. Considering the total facts and circumstances of the case and applying the above well settled principle of law to the facts of the case, 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.

14. In the factual matrix of the case, the case law cited by the Petitioner is of no help to him.

15. As a result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed. No order asto costs.

Sd/-
(P.Sam Koshy)
JUDGE

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