

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.6578 of 2014

1. Smt. Radha Bai, W/o late Shri Lila Ram Tandon, aged about 42 years, R/o Village Chouha, Post Tikari, PS Masturi, Tahsil & Distt. Bilaspur (C.G.)
 2. Bhuvan Singh, S/o Suruj Lal, adopted by late Shri Lila Ram Tandon, aged about 22 years, R/o Village Chouha, Post Tikari, PS Masturi, Tahsil & Distt. Bilaspur (C.G.)
- Petitioners

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Home (Police), Govt. of Chhattisgarh, Mahanadi Bhavan, PO Rakhi, Naya Raipur, Distt. Raipur (C.G.)
 2. The Superintendent of Police, Janjgir-Champa, Distt. Janjgir-Champa (C.G.)
- Respondents

For Petitioners:	Mr. M.P.S. Bhatia, Advocate.
For Respondents/State:	Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/01/2016

1. Husband of petitioner No.1 Lila Ram Tandon, while working as Head Constable in the Department of Home, died in harness on 31-7-2014. Petitioner No.2 claiming to be adopted son of Lila Ram Tandon made an application for compassionate appointment on 29-10-2014 along with certificate of Gram Panchayat and other documents in support of his claim that he is adopted son of the deceased Government servant. The said application was admittedly filed on 29-10-2014 and the

application was rejected on next day 30-10-2014 holding that no documents have been filed to establish father-son relationship between the parties against which the instant writ petition has been filed.

2. Learned counsel for the petitioners submits that though petitioner No.2 has submitted valid and legally admissible documents clearly demonstrating that he is adopted son of the deceased Government servant, yet the competent authority has neither considered his case nor gave any opportunity to produce further documents nor made any enquiry with regard to the documents which have already been submitted including the certificate of Sarpanch and straightway within twenty-four hours rejected the application holding that he is not adopted son of the deceased Government servant which is per se illegal and bad in law.
3. Learned State counsel submits that firstly, petitioner No.2 applied for compassionate appointment being brother-in-law of the deceased Government servant and when the same was not accepted, petitioner No.2 claiming to be adopted son again made application for compassionate appointment and, therefore, the application has been rejected.
4. The fact remains that on 29-10-2014, petitioner No.2 claimed appointment on compassionate ground claiming to be adopted son of the deceased Government servant, as adopted son is

included in clause 5 (b) of the policy for compassionate appointment dated 14th June, 2013 (Annexure P-4), but the competent authority on receipt of application on 29-10-2014 considered the same on the same day and rejected the said application on the next day even without holding any enquiry before reaching to such conclusion and did not give any opportunity to petitioner No.2 to produce further documents to establish his claim or to file affidavit etc., or to produce valid adoption deed in terms of Section 16 of the Hindu Adoptions and Maintenance Act, 1956. Such a course is impermissible in law. The competent authority ought to have given proper and reasonable opportunity to petitioner No.2 to establish the relationship prima facie and should have held enquiry to hold as to whether petitioner No.2 is adopted son of deceased Lila Ram Tandon, as adopted son is included in the policy for compassionate appointment. Therefore, the order impugned dated 30-10-2014 is set aside and the matter is remitted to the Superintendent of Police, Janjgir-Champa to consider the case of petitioner No.2 afresh after giving opportunity to produce documents / affidavit, as stated above, and to consider the feasibility of holding summary enquiry to find out as to whether petitioner No.2 is adopted son of the deceased Government servant. The whole exercise should be completed within three months from the date of receipt / production of certified copy of this order.

5. The writ petition is allowed to the extent indicated herein-above. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma