

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 847 of 2014**

Smt. Anjani Patel D/o late Shri Chandrashekhar Patel, aged about 35 years R/o Village Tarapur, Post & Police Station Raigarh, Tahsil and District Raigarh (CG).

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, School Education Department, Mahanadi Mantralaya, New Raipur, District Raipur (CG).
2. District Education Officer, Janjgir, District Janjgir Champa (CG).
3. Principal, Govt. Higher Secondary School, Kotmi, Block Dabhra, District Janjgir Champa (CG).

---- Respondents

For Petitioner	Shri Ajay Kumari Barik, 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 16.06.2009 (Annexure P/1) whereby the claim of the petitioner for compassionate appointment has been rejected on the ground that the Petitioner is a married woman.
2. According to the Petitioner, she was solely dependent upon the earning of his father and subsequent to the death of her father on 02.02.2009, she is facing financial crisis, and therefore, her case for compassionate

appointment should be considered. In support of her contention, she relied upon a decision passed by co-ordinate Bench of this court in case of Smt. Sarojni Bhoi Vs. State of Chhattisgarh & Others (WPS No. 296 of 2016, decided on 30.11.2015).

3. At the outset, a perusal of pleadings in the writ petition (Para-8.8) itself would show that petitioner got married subsequent to the death of her father i.e. deceased employee. She got married subsequent to the death of her father itself is sufficient to show that she had gone with a person who is capable to sustain her and she cannot claim for compassionate appointment for sustaining herself and her Husband particularly when death of her father had taken place prior to the marriage of the petitioner.
4. It is further reflected that the claim of the petitioner for compassionate appointment was rejected on 16.06.2009 whereas, she has filed this petition on 12.02.2014 i.e. almost after about 5 years.
5. 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.
6. 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.

7. 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.
8. 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. The Court cannot consider claims for compassionate appointment on the basis of sympathy.
9. In *Haryana State Electricity Board and another vs. Hakim Singh*¹ the Supreme Court held that "the whole object of any compassionate

¹ (1997) 8 SCC 85

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."

10. The Supreme Court in *State of J & K and others Vs. Sajad Ahmed Mir*², in para 11 has held as under:

"11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should not be departed from except where compelling circumstances demand, such as, death of the sole bread winner, the family survived and the family suffering because of the setback. Once it is proved that inspite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

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 succor 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:

² 2006 (5) SCC 766

“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.”

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 at such a belated stage.
14. The case law relied upon by the petitioner is distinguishable to the facts of the present case as in the present case, petitioner got married subsequent to the death of deceased employee.
15. As a result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed. No order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE