

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 2244 of 2015**

Laxmi Kashyap D/o Late Dhunirami Kashyap, aged about 33 years, R/o Village- Madanpur, P.O. Telikot, Tah. Kharsiya & Distt. Raigarh (Chhattisgarh)

---- Petitioner

Versus

1. State of Chhattisgarh through- the Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur (Chhattisgarh)
2. Chief Engineer, Minimata (Hasdeo) Bango Project, Bilaspur (Chhattisgarh)
3. Sub Divisional Officer, Minimata (Hasdeo) Bango Project, Sub Division No. 8, Kharsiya, Distt. Raigarh (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Anup Majumdar, Advocate
For Respondent/State	:	Smt. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22.01.2016**

The petitioner through the present writ petition has sought for a direction to the respondents to consider her case for grant of compassionate appointment on account of death of her father on 20.05.2005.

2. The facts of the present writ petition are that the father of the petitioner was working as a Time Keeper in the Work Charged and Contingency establishment and died in harness on 20.05.2005. Subsequent to the death of the employee, the petitioner moved an application for grant of compassionate appointment but the same was rejected by the respondents vide order dated 13.04.2011 Annexure P-3 leading to the filing of the present writ petition.

3. Admittedly, the petitioner, for the first time, made her claim for compassionate appointment on 15.03.2011 which shows that for six years the

petitioner had not made any efforts for grant compassionate appointment. This itself is sufficient to infer that the petitioner had sufficient means to sustain herself and she was not in a state of penury or destitute or facing financial crisis. Even otherwise, the death of the employee took place on 20.05.2005 and the present writ petition was filed on 23.06.2015 i.e. after more than 10 years and the petitioner has not given any satisfactory explanation for the said delay caused in filing the writ petition.

4. Considering the fact that since the petitioner has survived well for more than 10 years after the death of the deceased employee, the object for grant of compassionate appointment does not exist any further. The compassionate appointment is to be granted to tide over the immediate financial problem of the dependants of the deceased employee.

5. The law in this regard which by now is well settled in a *catena* of decisions of the Hon'ble Supreme Court whereby it has been held that compassionate appointment has to be considered by the employer immediately after the death of the deceased employee and the claim for compassionate appointment has to be promptly raised by the claimant and it cannot be raised at a belated stage. The purpose of providing appointments on compassionate ground is to mitigate the hardship due to death of the bread-earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress. Care has, however, to be taken that provision for grant of compassionate employment is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible and more meritorious seeking appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependent of the deceased employee. As it is in the nature of exception to the general provisions, it cannot substitute the provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision.

Compassionate ground is not a method of recruitment but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment.

6. 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.”

7. 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 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.”

8. Considering the total facts and circumstances of the case and also relying upon the decisions of the Supreme Court cited above 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.

9. Thus, only on the ground of delay, this Court is not inclined to entertain the present writ petition and the same is dismissed.

**Sd/-
P. Sam Koshy
Judge**

Bhola