

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No. 2488 of 2013**

Neeraj Kumar Singh S/o Late Shri Rajaram Singh, aged about 27 years,
R/o village & Post Odagi, P.S. & Tehsil Odagi, Revenue District Surajpur,
Civil District – Sarguja, C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, General Administration
Department, Mahanadi Bhawan, Naya Raipur, Dist Raipur, CG
2. State of C.G. through Secretary, School Education Deptt, Mahanadi
Bhawan, Naya Raipur, Dist Raipur, CG
3. District Education Officer, Surajpur, Distt Surajpur, CG
4. Collector, Surajpur, Dist Surajpur, CG

---- Respondents

For Petitioner	:	Shri Surfarj Khan, Advocate
For Respondents/State	:	Smt. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board By****15.01.2016**

Challenge in the present writ petition is to the order dated 16.02.2012 (Annexure P-1) whereby the claim of the petitioner for grant of compassionate appointment has been rejected on the ground that his elder brother was already in employment working as a Siksha Karmi.

2. Counsel for the petitioner submits that the elder brother of the petitioner had already married prior to the death of the employee and settled separately and it was the present petitioner and the widow of the deceased employee who were dependant solely upon the deceased employee. Counsel for the petitioner relied upon a judgment of the Madhya Pradesh High Court reported in 2012 (4) MPHT 542 (Gajpalsingh Rathore Vs. State of M.P.) wherein the case of the claimant therein had been remitted for reconsidering the ground whether a Siksha Karmi would be a Government employee or not which has not been

considered by the employer and also whether the word 'family' has been properly defined as per the rules of the State Government. Hence, counsel for the petitioner prayed for similar relief as has been granted by the M.P. High Court under the said judgment.

3. State counsel opposing the writ petition submits that the scheme of the State Govt. which has been filed along with the reply clearly in Clause-8 shows that where any member of the family of the deceased employee is already gainfully employed, under such circumstances, the claim for compassionate appointment to another member in the family will not be acceptable and this is precisely the fact involved in the claim of the petitioner and vide Annexure P-1, the same has been rejected.

4. The writ petition itself shows that brother of the petitioner was already employed prior to the death of the employee which itself proves that there is somebody gainfully employed in the family of the deceased employee which has not been disputed by the counsel for the petitioner during the course of hearing also.

5. So far as the judgment of the M.P. High Court is concerned, the same may not be applicable in the facts of the present case as the petitioner in the said writ petition was shown to be a Siksha Karmi on contractual basis which by itself reflects that he could be terminated after a specific period. Such is not in the present case where the petitioner has not been able to show that his brother is working on contractual basis or he is not a permanent Siksha Karmi, therefore, the ratio laid down by the M.P. High Court in the said case is not applicable in the facts of the present case.

6. So far as the definition of the word 'family' is concerned, there is no dispute that the petitioner is the son of the deceased employee and the elder son of the family is in employment and therefore on this aspect also the judgment of the M.P. High Court is not much helpful to the petitioner.

7. 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.

8. 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.”

9. 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).

10. 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.

11. 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.

12. 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."

13. 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."

14. 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."

¹ (1997) 8 SCC 85

15. 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.

16. As a result, the writ petition being bereft of merit is liable to be and is hereby dismissed. No order as to cost.

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