

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 495 of 2012**

- Smt. Kusum Rani Sahu, Wd/o Late Ram Narayan Sahu, aged about 39 years, R/o Ward No. 15, Village Singhori, Post Bemetara, Distt. Bemetara (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of Education, DKS Bhwan, Raipur (CG).
2. District Education Officer, Bemetara, District Bemerata (CG).
3. State of MP Department of Education, Vallabh Bhawan, Bhopal (MP).
4. Union of India through the Secretary, Department of Personal Public Grievance and Pension, Third Floor, Loknayak Bhawan, Khan Market, New Delhi.

---- Respondents

For Petitioner	Shri RK Pali, Advocate, under instructions of Shri PP Sahu, Advocate.
For Respondent/State	Ms. Smita Ghai, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14/03/2016**

1. By way of this petition, the petitioner seeks a direction to the respondents for considering her claim for compassionate appointment.
2. According to the petitioner, though her claim for compassionate appointment had been rejected by the respondents vide order dated 14.10.2011, but due to non availability of the said order he could not file the same, but has mentioned about the said order in the pleadings of the writ petition.

3. Facts of the case in brief are that, the husband of the petitioner while working under the employment of erstwhile State of Madhya Pradesh died in harness on 05.05.1996. Subsequently, after lapse of more than five years on 15.01.2001, the petitioner, for the first time moved an application for compassionate appointment, however, as the same was not responded by the State Govt., she preferred a writ petition in the year 2004, which was registered as Writ Petition No. 2936 of 2004 and was ultimately dismissed as withdrawn on 26.08.2009 with the liberty to move a representation to the respondents for redressal of her grievance. Subsequently, the representation filed by the petitioner got dismissed by the respondents on 14.10.2011.
4. Learned counsel for the petitioner submits that in the year 1996, when the husband of the petitioner died, there was no limitation for preferring an application for compassionate appointment and as such there is no delay on the part of the petitioner in moving the application for compassionate appointment in the year 2001. Therefore, rejection of her application on the ground that claim for compassionate appointment in respect of the death that took place in the year 1996 cannot be considered, is bad in law and deserves to be set aside.
5. Learned counsel for the State opposing the petition submits that this petition miserably suffers from delay and laches. The petitioner has not been able to substantiate the delay firstly in moving the application for compassionate appointment and secondly, in approaching the court for appropriate direction to the respondents. She further submits that after the State of Chhattisgarh carved out w.e.f. 01.11.2000, the State of Chhattisgarh had taken a policy decision that the claim for compassionate appointment shall be considered only in respect of those applicants where the government servant had died

subsequent to 01.11.1997 and not prior to that. In the instant case the death of employee took place on 05.05.1996 and the petitioner for the first time has moved an application for compassionate appointment on 15.01.2001. As there is five years delay on the part of the petitioner in moving the application and the petitioner has failed to explain such inordinate delay, this petition may be dismissed only on the ground of delay.

6. Taking into consideration the facts and circumstances of the case, admittedly there is five years delay in moving the application for compassionate appointment for the first time on 15.01.2001. Secondly, there was also inordinate delay in approaching the court for appropriate direction by way of first writ petition in the year 2004 which was filed after a period of eight years from the date of death of employee. The present writ petition has been filed after a period of more than 15 years from the date of death of the employee. The petitioner has another difficulty in meeting the requirement of the scheme of the State Govt. which would be applicable only in respect of those applicants where death of employee occurred subsequent to 01.11.1997, whereas in the instant case, death of the employee occurred prior to 01.11.1997 i.e. on 05.05.1996. Delay and laches is also coming in the way of the petitioner inasmuch as the petitioner for the first time moved an application for compassionate appointment on 15.01.2001 i.e. after a lapse of five years from the date of death of the employee which itself is sufficient to infer that the family was not in penury or financial crisis.
7. It is a trite law that appointment on compassionate ground is not an alternative mode of recruitment, but is a facility to provide for immediate rehabilitation of the family in distress 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 be treated as a source of employment.

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 only on the basis of sympathy.
9. For the reasons mentioned herein above, there is no merit in the petition. The petition is accordingly dismissed. No order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE