

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No. 931 of 2012**

Sanat Kumar Verma, aged 18 years S/o Late Shri Ghanshyam
Singh Verma, Village Katalwani, Post Musarakala, Tahsil
Dongargarh, District Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. State Govt. of Chhattisgarh through the Secretary, School
Education Deptt. D.K.S. Bhawan, Raipur (C.G.)
2. District Education Officer, Rajnandgaon (C.G.)

---- Respondents

For Petitioner	:	Shri Ajay Shrivastava, Advocate
For Respondent/State	:	Ms. Tripti Rao, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/02/2016**

Challenge in the present writ petition is to the order dated 27.06.2011 whereby the claim of the petitioner for grant of compassionate appointment on his attaining the age of majority has been rejected by the respondents on the ground of it not being filed within a period of six months from the date of death of the employee.

2. The facts relevant for adjudication of the matter are that the father of the petitioner namely Ghanshyam Singh Verma was working as an assistant teacher with the respondent department and died in harness on 29.02.1996. According to the petitioner, on the date of death of his father he was only three years old and that he attained the age of majority in the year 2011. Thereafter, he filed the application for grant of compassionate appointment which was rejected by the authorities concerned vide order dated

27.06.2011 Annexure P-1 on account of it being moved beyond the prescribed period of limitation.

3. Counsel for the petitioner placed his reliance upon two decisions; one is of this Court passed in W.P.(S) NO. 6074/2008 and the other is of the Supreme Court in the case of Smt. Sushma Gosain and others v. Union of India and others reported in AIR 1989 SC 1976.

4. Having considered the facts and circumstances of the case what reveals in the instant case is that admittedly at the time of death of the employee the petitioner was minor aged about three years. Though the scheme for compassionate appointment at the relevant time was that in the event of a Govt. servant dies leaving behind a minor, the claim of the minor for grant of compassionate appointment would be considered after his attaining the age of majority. However, the law in this regard has seen a sea change in the course of time. The recent pronouncement of the Supreme Court is that the post which has fallen vacant on account of the death of the employee cannot be kept vacant till his minor son/daughter attains the age of majority. The claim for compassionate appointment has to be made promptly and the same also has to be decided immediately with an intention that the family would meet the immediate financial crisis caused on account of the death of the government servant.

5. The law in this regard 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 which 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 for 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. Compassionate appointment should not be considered as an alternative source of recruitment.

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. Further in the case of Local Administration Department and another v. M. Selvanayagam alias Kumaravelu the Apex Court has held as under:

“Ideally, the appointment on compassionate basis should be made without any loss of time but having regard to the delays in the administrative process and several other relevant factors such as the number of already pending claims under the scheme and availability of vacancies, etc. normally the appointment may come after several months or even after two to three years.”

9. The Supreme Court in recent past in AIR 1997 SC 3887 (Haryana State Electricity Board and another v. Hakim Singh), AIR 1998 SC 2613 (K. I. Pavunny v. Asstt. Collector, Cochin), (2000) 7 SCC 192 (Sanjay Kumar v. State of Bihar and others) and (2003) 7 SCC 511 (State of Manipur v. Md. Rajaodin) dealing with the same

issue has taken a consistent view as enunciated in the preceding paragraphs of this order.

10. The judgments cited by the counsel for the petitioner on which he placed strong reliance are distinguishable from the facts of the present case. In both the said cases, immediately after death of the Govt. servant, the dependents had moved application for grant of compassionate appointment within the prescribed period of limitation but their claim could not be considered for some reason or the other and was kept pending. There is nothing of such kind in the instant case. The present petitioner even is not able to disclose as to why the other members of the family had not sought for compassionate appointment on the death of the employee.

11. 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.

12. Thus, the instant petition being devoid of merit deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE