

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (S) No. 4150 of 2015**

Gaya Prasad Aadile S/o Late Shri Ordhan Aadile, Aged About 37 Years
R/o Village Navagaon Koudiya, Tahsil Masturi, Police Station Seepat,
District Bilaspur, (Chhattisgarh)

---- **Petitioner****Versus**

1. Chhattisgarh State Power Distribution Company Limited Through The Managing Director, Daganiya, Raipur, District Raipur, (Chhattisgarh)
2. Superintending Engineer, Office Of Executive Director, (Bichhe) Chhattisgarh State Electricity Distribution Company Limited, Bilaspur, (Chhattisgarh)
3. Executive Engineer (D/C) Division Chhattisgarh State Electricity Distribution Company Limited Bilaspur, (Chhattisgarh)

---- **Respondents**

 For Petitioner:

Mr. Suresh Kumar Verma, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board**12.02.2016**

1. The Present petition has been preferred seeking compassionate appointment with the Respondent on account of death of father of the Petitioner, who died in harness on 21.01.2002.
2. The admitted facts in the present case is that father of the deceased-late Shri Ordhan Aadile while working with the Respondent No.1 died on 21.01.2002. The present Petitioner moved his application for compassionate appointment for the first time on 09.07.2012 after more than 10½ years of the death of the deceased employee.
3. In the instant case elder brother of the Petitioner initially moved

application for appointment on compassionate ground. On inaction on the part of the Respondent the present Petitioner subsequently moved an application for compassionate appointment on 09.07.2012 which was rejected on 24.09.2015.

4. The facts relevant in the present Writ Petition is that the deceased employee died on 21.01.2002 and the Petitioner has filed his application for grant of appointment on compassionate ground after more than 10 years. It is sufficient to establish the fact that there was sufficient means to sustain their life, there was no state of penury or they were in any dire financial crisis.
5. The law in this regard 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 caused due to the sudden 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 ground of compassionate employment being in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek 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. The fact that claim of compassionate appointment has been made after 10½ years and the present Petition has been filed after 13 years from the date of death of the deceased employee, are good grounds not to entertain the present Petition.
9. For the aforesaid reason the present Writ Petition being devoid of merit is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE