

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 160 of 2016**

1. Chairman - Cum - Managing Director Food Corporation Of India, Bara Khambha Road, New Delhi
2. Executive Director, F.C.I. Zonal Office, West Second Floor, Rajendra Nagar, Datta Pada Road, Borivali, East Mumbai.
3. General Manager, F.C.I. Regional Office, Kapa, Raipur, District Raipur (Chhattisgarh)
4. District Manager, F.C.I. District Office Bilaspur Dist : Bilaspur (Chhattisgarh)
5. Area Manager, F.C.I. District Office, Bilaspur Anugrah Bhawan, Maharana Pratap Chowk, Jarhabhata Dist : Bilaspur (Chhattisgarh)

---- Appellants**Versus**

- Satish Kumar Sahu S/o Late Shri Bala Ram Sahu, Aged About 35 Years R/o Seepat Road, Devnandan Nagar, Phase- II, Police Station Sarkanda, Tahsil And District Bilaspur (Chhattisgarh)

---- Respondent

For Appellants	:	Shri B.P.Gupta, Advocate
For Respondent	:	Ms. Sharmila Singhai, Advocate

Hon'ble The Chief Justice
Hon'ble Shri Justice Sanjay Agrawal

Order On Board**24/10/2016****Per Deepak Gupta, CJ**

This writ appeal is directed against the order/judgment delivered by a learned Single Judge of this Court in Writ Petition (S) No. 2790 of 2015 on 06.01.2016 whereby the learned Single Judge directed the appellants – Food Corporation of India (in short, the FCI) to consider the case of the appellant/petitioner in accordance with law for grant of compassionate appointment, notwithstanding the fact that the appellant/petitioner was married.

2. The undisputed facts are that the father of the appellant/petitioner was employed with the Food Corporation of India and he died while in service in the year 1997. After the death of the father, on 18.11.1997, the widow of the deceased requested for compassionate appointment of her elder son, namely, Satish Kumar Sahu, present appellant, who was at that time aged about 19 years. He was adult and not a minor. The appellant/petitioner was aware of his right to get compassionate appointment, and therefore, had filed the application, No orders were passed on this application and in the year 2012, the appellant – Satish Kumar Sahu filed another representation for consideration of his case for compassionate appointment. This representation was rejected on 05.02.2015 on the ground that since Satish Kumar Sahu was married, he was not entitled to compassionate appointment.

3. The order dated 05.02.2015 was challenged. The case was heard along with another case. Unfortunately, the FCI was not even given an opportunity to file reply in this case and the learned Single Judge only decided the question of law whether son of a deceased FCI employee could be disqualified for consideration for appointment on compassionate ground on the premise that he is married. Thereafter, learned Single Judge held that a married son is also entitled to compassionate appointment and his right to be considered for compassionate appointment cannot be rejected only on the ground that he is married. We, as far as this finding of the learned Single Judge is concerned, are totally in agreement. However, as noted above, the respondents had not even filed reply, and therefore, when this appeal was filed, the Division Bench on 17th March, 2016 passed the following order:

“17/03/2016 Shri B.P.Gupta, counsel for the Appellants.

Shri Vinay Pandey, counsel for the Respondent.

Learned Counsel for the Appellants prays for adjournment to file certain more pleadings.

The Writ Petition came to be disposed at the admission stage without a counter affidavit by the Appellant.

Let additional pleadings be served and filed within two weeks. Reply, if any, be filed within one week thereafter.

List for admission after three weeks.”

4. Thereafter, additional pleadings have been filed and along with the additional pleadings, the appellants have attached an Office Memorandum showing that if a person is not granted appointment within three years, his application is deemed to be rejected. We are not going into aspect of this matter. The father of the appellant/petitioner died in the year 1997. Compassionate appointment cannot be termed to become with another mode of recruitment. The entire purpose for grant of compassionate appointment is to help the family tide over the financial crisis, if any, that it faces when the sole bread earner expires. Even if a person is allowed to be considered for compassionate appointment, this is only a right of consideration. There cannot be any vested right to be appointed.

5. The Food Corporation of India constituted a Committee and this Committee found that the family of the deceased was not living in penury. It also found that the appellant – Satish Kumar Sahu was running a provision store. Reply to this additional documents has been filed, but, there is no material contradiction.

6. There are two aspects of the case which, according to us, dis-entitle the original writ petitioner from getting compassionate appointment. Firstly, his father has died in the year 1997. The first application for grant of compassionate appointment was filed in the 1997 and no legal proceedings were taken out. Thereafter a fresh representation was filed in the year 2012, which was rejected in 2015 and the writ petition is being filed thereafter. The writ petition has been filed after 18 years after the death of the appellant's father. This itself shows that the family is not living in penurious circumstances. The Committee has found that not

only is the claimant/appellant running a provision store but the mother has sold 1.09 acres of land at Bhatapara and she also has three more acres of agricultural land. Therefore, an inference can be drawn that family of the deceased employee is not living in penurious circumstances. In our view, this is sufficient ground to hold that the petitioner is not entitled for compassionate employment. It may be true that the rejection order only mentioned the fact that the petitioner was not granted employment because he was married but the fact of the matter is that the report of the Committee was also on the record and no purpose would be served by remanding the case again to the authority for consideration of the case of the petitioner for compassionate appointment.

7. We, therefore, allow the writ petition setting aside the order/judgment of the learned single Judge in so far as it directs reconsideration of the case of the appellant/petitioner and hold that in the facts and circumstances of the case, the original petitioner (appellant herein) is not entitled any relief whatsoever.

8. With the aforesaid observation, this writ appeal is allowed.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge