

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 525 of 2016**

1. Chhattisgarh State Electricity Holding Company Limited Daganiya Raipur Chhattisgarh
2. Deputy General Manager Chhattisgarh State Electricity Holding Company Limited Daganiya Raipur Chhattisgarh

---- Appellants**Versus**

Chandrani Sinha D/o Late Shri Uttam Singh Sinha aged about 24 years R/o Village Arjuni Post Demar District Dhamtari Chhattisgarh

---- Respondent

For Appellants	: Shri Jitendra Pali, Advocate.
For Respondent	: None.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board**Per Deepak Gupta, Chief Justice****21/11/2016**

1. This appeal is directed against the judgment dated 7.9.2016 delivered by Learned Single Judge of this Court in Writ Petition (S) No.5576 of 2014 whereby the Learned Single Judge has held that even the married daughter of the deceased employee is entitled to be considered for grant of compassionate appointment.
2. The Learned Single Judge after referring to various decisions has held that the condition, whereby the married daughter is not eligible for being considered for compassionate appointment is illegal. We may not refer to all the decisions but only refer to the judgment of the Apex Court in (1996) 2 SCC 380, *Savita Samvedi (Ms) & Another v. Union of India & Others*, in which it was held that a circular which restricted benefit being given to the married daughter of a retired

official only in those cases where such official had no son or unmarried daughter, is illegal. The Apex Court held as follows:-

“7. The retiring official’s expectations in old age for care and attention and its measure from one of his children cannot be faulted, or his hopes dampened, by limiting his choice. That would be unfair and unreasonable. If he has only one married daughter, who is a railway employee, and none of his other children are, then his choice is and has to be limited to that railway employee married daughter. He should be in an unfettered position to nominate that daughter for regularisation of railway accommodation. It is only in the case of more than one children in railway service that he may have to exercise a choice and we see no reason why the choice be not left with the retiring official’s judgment on the point and be not respected by the Railway authorities irrespective of the gender of the child. There is no occasion for the Railways to be regulating or bludgeoning the choice in favour of the son when existing and able to maintain his parents. The Railway Ministry’s Circular in that regard appears thus to us to be wholly unfair, gender-biased and unreasonable, liable to be struck down under Article 14 of the Constitution. The eligibility of a married daughter must be placed on a par with an unmarried daughter (for she must have been once in that state), so as to claim the benefit of the earlier part of the Circular, referred to in its first paragraph, abovequoted.”

3. In (2015) 1 SCC 192, *Charu Khurana v. Union of India*, the Apex Court held as follows:-

“33. ... On a condign understanding of clause (e), it is clear as a cloudless sky that all practices derogatory to the dignity of women are to be renounced. Be it stated, dignity is the quintessential quality of a personality and a human frame always desires to live in the mansion of dignity, for it is a highly cherished value. Clause (j) has to be understood in the backdrop that India is a welfare State and, therefore, it is the duty of the State to promote justice, to provide equal opportunity to all citizens and see that they are not deprived of by reasons of economic disparity. It is also the duty of the State to frame policies so that men and women have the right to adequate means of livelihood. It is also the duty of the citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

41. The aforesaid pronouncement clearly spells out that there cannot be any discrimination solely on the ground of gender. It is apt to note here that reservation of seats for women in panchayats and municipalities have been provided under Articles 243(d) and 243(t) of the Constitution of India. The purpose of the constitutional amendment is that the women in India are required to participate more in a democratic set-up

especially at the grass root level. This is an affirmative step in the realm of women empowerment. The 73rd and 74th Amendments of the Constitution which deal with the reservation of women has the avowed purpose, that is, the women should become parties in the decision-making process in a democracy that is governed by the rule of law. Their active participation in the decision-making process has been accentuated upon and the secondary role which was historically given to women has been sought to be metamorphosed to the primary one. The sustenance of gender justice is the cultivated achievement of intrinsic human rights. Equality cannot be achieved unless there are equal opportunities and if a woman is debarred at the threshold to enter into the sphere of profession for which she is eligible and qualified, it is well-nigh impossible to conceive of equality. It also clips her capacity to earn her livelihood which affects her individual dignity.”

4. There is no reason why a married daughter should be denied the benefit of compassionate appointment if otherwise she is not entitled to compassionate appointment as per the scheme of the employer.
5. Another important aspect of the matter in the present case is that the Respondent was unmarried when she moved an application for grant of compassionate appointment. No person can wait for the response from the employer till eternity and stop his life totally just because the employer may or may not offer employment.
6. We therefore reject the appeal but make it clear that the employer is only directed to consider the case of the Respondent for compassionate appointment and it is for the employer to decide whether the Respondent is entitled for compassionate appointment as per scheme, or not. The cost of Rs.10,000/- imposed by the Learned Single Judge is reduced to Rs.2,000/-.
7. The appeal is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
Judge