

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 4390 of 2013**

Smt. Mankunwar Bai W/o Goverdhan, aged about 35 years, R/o
Village Rilo, P.S. Chhal, Tahsil Dharamjaigarh, Distt. Raigarh,

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, School Education
Department, Mahanadi Bhawan, Mantralaya, New Raipur, C.G.
2. Collector, Raigarh, C.G.
3. District Education Officer, Raigarh, Distt. Raigarh, C.G.

---- Respondents

For Petitioner	:	Shri Rahul Mishra, Advocate
For Respondents/State	:	Smt. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board By****15.01.2016**

By way of the present writ petition the petitioner has challenged the order dated 01.08.2007 whereby the claim of the petitioner has been rejected on the ground that a daughter-in-law is not entitled for compassionate appointment as per the Government Scheme.

2. According to the petitioner, her father-in-law Sidar Singh Baiga who was working as an Assistant Teacher died in the year 2001. Soon after death of the employee, his widow also died in June 2002 followed by the death of their son i.e. the husband of the petitioner in October 2002.

3. According to the counsel for the petitioner, the petitioner being the sole surviving member in the family of the deceased employee had immediately moved an application for compassionate appointment which was finally rejected on 01.08.2007 on the ground that the Scheme for compassionate appointment does not entitle a daughter-in-law. Counsel for

the petitioner submits that the policy of the Govt. is bad in law and that only because the petitioner happens to be the daughter-in-law, she should not be denied the consideration of compassionate appointment, particularly when she is the sole surviving member in the family of the deceased employee.

4. Per contra, State counsel submits that the present writ petition deserves to be rejected only on the ground of delay and latches particularly on the fact that the claim is that of compassionate appointment. According to the State counsel, in the case of compassionate appointment, the petitioner ought to have challenged the impugned order at the earliest after rejection of the same on 01.08.2007. However, the present writ petition has been filed after more than 6 years from the date of the impugned order having been passed and as such the object of grant of compassionate appointment loses its efficacy, therefore, the petition does not warrant any interference and the same deserves to be rejected on the ground of delay.

5. In the instant case, admittedly, the claim for compassionate appointment was rejected on 01.08.2007 and the present writ petition was filed in December, 2013 i.e. after about six years and there is no satisfactory explanation for the delay caused except for being a tribal lady residing in a remote area. The grant of compassionate appointment is not an alternative source of employment and it has to be decided as per the scheme of the State Government. The petitioner if at all was aggrieved by the order dated 01.08.2007, she should have challenged it immediately which she is now doing after six years.

6. The very fact that the petitioner could survive for more than 6 years even after the order of rejection on 01.08.2007 and for about 13 years after the death of the deceased employee in the year 2001 itself is sufficient to infer that the petitioner had sufficient means to sustain herself and further proof that it is not a case where she was in a state of penury or destitute or being financial crisis.

7. Considering the fact that since the petitioner has survived well for 13 years after the death of the deceased employee, the object for grant of compassionate appointment does not exist any further as the compassionate appointment is to be granted to tide over the immediate financial problem of the dependants of the deceased employee.

8. The law in this regard which 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 ground 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 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.

9. 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.”

10. 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.”

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, only on the ground of delay, this Court is not inclined to entertain the present writ petition and the same is dismissed.

**Sd/-
P. Sam Koshy
Judge**

Bhola