

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5730 of 2014**

Jageshwar Prasad S/o Khaju Ram Aged About 24 Years R/o Village
Pandarbhatta Tah. Mungeli Dist. C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Public Welfare Mahandi Bhawan Raipur C.G.
2. Chhattisgarh Gramin Bank Choubey Colony Raipur C.G.
3. The President Bilaspur-Raipur Kshetriya Gramin Bank Bilaspur C.G.
4. Chhattisgarh Gramin Bank Controlling Officer, Vyapar Vihar Bilaspur C.G.
5. CG Gramin Bank Branch Mungeli Dist. Mungeli C.G.
6. Archana Sharma Cashier, Posted At Chhattisgarh Gramin Bank Abhanpur Raipur C.G.

---- Respondents

For Petitioner:	Mr. Goutam Khetrapal, Advocate
For Respondents No. 2 to 5:	Mr. B.D. Guru, Advocate
For State:	Ms. S. Ghai, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****21.01.2016**

1. I.A. No. 2 of 2015 has been filed for deleting the name of Respondent No. 6 and the same is not opposed by Counsel for the Respondents.
2. Accordingly, I.A. No. 2 is allowed. The name of Respondent No. 6 stands deleted from the array of causetitle.

3. The present Writ Petition has been filed against the order dated 11.09.2014 whereby the claim of compassionate appointment and the benefits under EGS 2007 has been rejected.

4. Learned Counsel for the Petitioner submits that father of the Petitioner died on 09.03.2005 and therefore the Respondent could not have invoked Scheme which was introduced in the year 2007-08 Annexure P/5 applicable w.e.f. 23.03.2007. The case of the Petitioner ought to have been considered in accordance with prevailing rules at the time of death of the deceased employee i.e. 09.03.2005.

5. Learned Counsel for the Respondents No. 2 to 5 submits that at the time when the application for compassionate appointment was being considered the new scheme has already come into force and that was replacing all the earlier circular and guidelines and therefore the case of the Petitioner was considered in accordance with the new Scheme that floated w.e.f. 23.03.2007.

6. Needless to mention that benefit of compassionate appointment shall be considered in accordance with the scheme in force at the time of the death of the deceased employee. In the instant case admittedly the Petitioner had moved application for grant of compassionate appointment on 02.12.2005 and that the Petitioner's case ought to have been considered in accordance with scheme that was prevalent in year 2005. The Respondent while rejecting the claim of the Petitioner have not considered whether the case of the

application submitted is prior to the coming in force of the new scheme w.e.f. 23.03.2007. So far as the scheme for grant of compassionate appointment is concerned, is now well settled and that it is the date of death of the deceased employee on which the scheme in force would be the relevant for consideration.

7. The Supreme Court in a catena of decisions have held that the relevant scheme which would be applicable for considering the cases for compassionate appointment would be the scheme which was in force on the date of death of the employee. Latest judgments in this regard is 2007 (9) SCC 571 (State Bank of India & Others Vs. Jaspal Kaur) and 2015(7) SCC-412 (Canara Bank and Another Vs. M. Mahesh Kumar).

8. In view of the said legal position of the law the impugned order is set aside and the matter is sent back to the Respondent for considering the case of the Petitioner for grant of compassionate appointment a fresh in accordance with scheme that was in force on the date of death of the deceased employee and also the date on which the Petitioner has moved his application i.e. December' 2005.

9. However, it is made clear that this Court has not expressed any opinion on the merits of the case so far as eligibility of the petitioner for compassionate appointment is concerned. The Respondents are at liberty to pass appropriate order or take appropriate decision strictly in accordance with the scheme that was in force at relevant period of time.

It is expected that the authorities would decide the case as expeditiously as possible.

10. With the aforesaid observation the Writ Petition is disposed.

Sd/-
(P. Sam Koshy)
JUDGE

kishore