

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No. 2662 of 2013**

Surendra Dhar Deewan S/o Shri Ish Kumar Sharma, aged about 29 years, R/o Kailash Nagar, Nahar Nali Ke Pas, P.S. Mohan Nagar, Tahsil & Distt.Durg, C.G.

---- Petitioner**Versus**

1. The State of Chhattisgarh through the Secretary, Excise Vibhag Ministry, Mantralaya, Mahanadi Bhawan, P.S. Rakhi, New Raipur, C.G.
2. Aayukta Excise, Chhattisgarh, Raipur, C.G.
3. Assistant Ayukta Aabkari, District Durg, C.G.

---- Respondents

For Petitioner	:	Shri Ajay Kumar Shrivastava, Advocate
For Respondents/State	:	Smt. Smita Ghai, Panel Lawyer

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

Challenge in the present writ petition is to the order dated 21.06.2013 whereby the claim of the petitioner for grant of compassionate appointment has been rejected on the ground that his elder brother is already in Government employment.

2. Counsel for the petitioner submits that the sole ground on which the present writ petition has been filed is that on the date of consideration of compassionate appointment the circular dated 14.06.2013 Annexure P-1 was in force and therefore the case of the petitioner should have been considered in accordance with the said circular wherein there is no such embargo that if there is any member of the deceased employee in Govt. employment, the second member of the family would not be entitled for claiming compassionate appointment.

3. State counsel however opposes the writ petition and submits that the case of the petitioner was considered in accordance with the circular that was prevalent prior to the issuance of circular dated 14.06.2013 wherein the position as it stood was, in case if there is a gainfully employed person in the family of the deceased employee, the claim of the second member for compassionate appointment would not be sustainable.

4. It is settled position of law that the circular and scheme which was prevalent on the date of death of the deceased employee that would be made applicable for considering grant of compassionate appointment. Therefore, on the said legal position the respondents have rightly rejected the claim of the petitioner.

5. 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 is the scheme which was in force on the date of death of the employee. Latest judgments in this regard is (2007) 9 SCC 571 (SBI Vs. Jaspal Kaur) and (2015) 7 SCC 412 (Canara Bank and another Vs. M. Mahesh Kumar).

6. In view of the said proposition of law, the respondents have not committed any error of law or illegality while rejecting the claim of the petitioner warranting interference by this Court.

7. The Writ Petition being totally devoid of merits deserves to be and is accordingly rejected. No order as to cost.

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