

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 184 of 2016

- Ku. Pratibha Tandan D/o. Late Chhavi Lal Tandan, Aged About 23 Years (Wrongly Written As 32 Years In The Petition), R/o. Sector- 8, Street No. 53, Quarter No. 2/ V, Bhilai, P.S. Sector- 6 Kotwali, Civil And Revenue District Durg (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. Director, (Public Educational), Raipur (Chhattisgarh)
3. District Education Officer, Raipur (Chhattisgarh)
4. Block Education Officer, Arang, District Raipur (Chhattisgarh)

---- Respondent

For Petitioners	: Shri R. Pradhan, Advocate.
For Respondent/State	: Shri AS Kachhawaha, Addl. A.G.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice Inder Singh Uboweja

Judgment On Board By Justice Pritinker Diwaker

03/05/2016

Chhavilal Tandon was the employee of State Government who died in harness on 11.11.2006. His widow i.e. mother of the appellant applied for compassionate appointment on 7.2.2007, however, her application remained pending and during that period, she also expired. Subsequently, the appellant claiming herself to be completely

dependent upon her parents had applied for compassionate appointment, however, her case was rejected on 9.8.2011 (Annexure P/1) on the ground that as per government rules, decision on compassionate appointment can be taken only up to three years from the death of the employee. In the writ petition, the appellant challenged the action of the respondent authorities and prayed for grant of compassionate appointment.

02. Indisputably, the appellant filed the writ petition in the year 2014 i.e. much after more than 3 years of rejection of her application by the respondents, without proper explanation or reason for filing the petition with such an inordinate delay. Mere explanation of the appellant that she was repeatedly making correspondences with the government officials is no excuse for her approaching the Court after an inordinate delay. Even it has not been made clear by the appellant as to why her mother did not take any step after moving a formal application on 7.2.2007 for compassionate appointment. Once the mother of the appellant has not taken any interest to get compassionate appointment, subsequent to her death the appellant cannot claim the same on the ground that she being dependent upon deceased employee, who died way back in the year 2006, is entitled for compassionate appointment.

03. It is also well settled that compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the family member of the deceased employee. Its

very object is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member and such consideration cannot be kept binding for years. The consideration for such employment is not a vested right, which can be exercised at any time in future, and compassionate appointment cannot be claimed and offered whatever may be the lapse of time after the crisis is over.

The Hon'ble Supreme Court while considering the matters relating to compassionate appointment has very categorically held that such appointment is an exception to the general rule of appointment in public office through competitive examination. Once it is proved that inspite of death of the breadwinner, the family survived and a substantial period is over, there is no need to make appointment on compassionate ground at the cost of interest of several others ignoring the mandate of Article 14 of the Constitution.

04. In the present case also, there has been inordinate delay throughout on the part of the appellant in pursuing the matter. After the death of father of the appellant in the year 2006, her mother moved an application for compassionate appointment in 2007 and during pendency of that application, she passed away. Thereafter, the appellant preferred an application for compassionate appointment, which was rejected on 9.8.2011 for being made beyond the period prescribed therefor in the rules. The writ petition filed by the appellant also suffered from the vice of delay and laches. The learned Single Judge considering all the aspects of the case in light of principles of law laid down by the Hon'ble Supreme Court in the matters of grant of compassionate appointment, has dismissed the writ petition. We find

no illegality or infirmity in the reasonings assigned by the learned Single Judge while dismissing the writ petition. The instant appeal being devoid of any substance is also liable to be dismissed *in limine* and is, accordingly, dismissed.

Sd/

(Pritinker Diwaker)

Judge

Sd/

(I.S. Uboweja)

Judge

Khan