

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 312 of 2016**

Ramesh Kumar Verma S/o Late Umend Ram Verma, aged about 22 years, R/o village & Tundri, Block & Police Station Bilaigarh, District Raipur, Chhattisgarh, Now Balodabaar, Chhattisgarh.

---- Appellant

**Versus**

1. State of Chhattisgarh, Through The Secretary, PWD Department, DKS Bhawan (Now Mahanadi Bhawan) Raipur, District Raipur, Chhattisgarh.
2. Sub Divisional Officer, PWD Sub Division, Bhatgaon, District Raipur, Now Balodabazar, Chhattisgarh.
3. Executive Engineer, PWD Division, Baloda Bazar, District Baloda Baar, Chhattisgarh.

---- Respondents

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| For Appellant        | : Shri Ashok Patil, Advocate.               |
| For Respondent/State | : Shri Y.S.Thakur, Deputy Advocate General. |

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**Hon'ble Shri Deepak Gupta, Chief Justice**  
**Hon'ble Shri P. Sam Koshy, J.**

**Judgment on Board**

**Per Deepak Gupta, Chief Justice**

**21/07/2016**

1. This appeal is directed against the judgment dated 02.03.2016 passed in Writ Petition (S) No. 5133 of 2012 whereby the writ petition filed by the Petitioner seeking compassionate appointment was rejected.
2. The indisputed facts are that the father of the Petitioner namely Umed Ram Verma was employed as Permanent Gangman in the office of Sub Divisional Officer, PWD (Building & Road). He expired on 28.07.2001 while he was in service. The Petitioner, at that time was minor aged about 11 years. It

is also not disputed that immediately after death of the Umend Ram Verma, his wife i.e. mother of the Petitioner filed an application for grant of compassionate appointment which was forwarded to the Respondent No. 3 by the Respondent No. 2. However, no order was passed on that application. The mother of the Petitioner did not pursue the application nor did she file any petition praying that she be granted compassionate appointment. In the year 2008, the Petitioner attained the age of majority. On 26.04.2010, he filed an application before the Respondent/Department for grant of compassionate appointment. This application was also forwarded for appropriate orders by the Respondent No. 2 to Respondent No. 3. The Petitioner sent reminder in the year 2012 but no decision was taken. Thereafter, Writ Petition (S) No. 5133 of 2012 was filed on 07.11.2012. The learned Single Judge rejected the aforesaid petition on the ground that there was no financial crisis at this stage.

3. It is well established law that compassionate appointment cannot be turned into another source of recruitment. Compassionate appointment is granted to the next of kin of the deceased employee to help the family to tide over the sudden financial crisis. There is no vested right to claim compassionate appointment. However, every next of kin of the deceased has a right to be considered for compassionate appointment as long as the scheme for grant of compassionate appointment exists.

4. As far as the present case is concerned, the mother of the Petitioner filed an application soon after death of the deceased employee, but she did not pursue the said application. No decision was taken by the Respondent/Department on her application but she appears to be not aggrieved by their inaction. In 2008, the Petitioner attained the age of majority. He then applied for grant of compassionate appointment in the year 2010. No doubt, his application should have been considered, but the question that arises is whether we can give any direction that the application of the

Petitioner should be considered at this stage now or not.

5. We are clearly of the view that compassionate appointment is meant to help a family to tide over the sudden financial crisis and needs emergent action. Orders on such application must be passed as early as possible. The rules prescribes three months time to take decision. It is not for us but for the appropriate authority to take any decision. As far as the present case is concerned, the Petitioner filed the writ petition four years after he became major. He waited two years to file the application for grant of compassionate appointment and another two years to file the writ petition. The learned Single Judge held, and in our opinion, rightly so that no direction can be issued that the case of the Petitioner be considered since more than a decade and a half has elapsed since the death of the deceased and there can be no immediate financial crises within the meaning of the policy for grant of compassionate appointment.

6. Reliance has been placed by learned counsel for the Petitioner on a decision of the Apex Court in *Sushma Gosain v. Union of India* {(1989) 4 SCC 468}.

7. We have gone through the said judgment which itself states that the case can be considered even after a minor attains the age of majority, but thereafter, the Apex Court has also clarified in *State of J&K and Others v. Sajad Ahmed Mir* {(2006) 5 SCC 766} wherein it was clearly held as follows:

"11. We may also observe that when the Division Bench of the High Court was considering the case of the applicant holding that he had sought "compassion", the Bench ought to have considered the larger issue as well and it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of

the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

8. Thereafter, the Apex Court made reference to the earlier judgments delivered in *State of Haryana v. Rani Devi* {(1996) 5 SCC 308}, *LIC of India v. Asha Ramchandra Ambedkar* {(1994) 2 SCC 718} and *Umesh Kumar Nagpal v. State of Haryana* {(1994) 4 SCC 138}. It also considered *Sushma Gosain* (supra) relied upon by the Petitioner holding that there should be no delay in appointment but the purpose of providing appointment is to mitigate the hardship due to death of the bread winner of the family and therefore such appointment should be provided immediately to redeem the family in distress and not after long time. Therefore, there is no merit in the writ appeal.

9. For the reasons stated hereinabove, the appeal is dismissed.

Sd/-

(Deepak Gupta)  
**CHIEF JUSTICE**

Sd/-

(P. Sam Koshy)  
**JUDGE**