

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No. 3658 of 2013**

Ramnarayan Yadav S/o Late Ramlal Yadav, aged about 22 years, R/o House No. 24, Ward No. 12, Rajiv Vihar, I.T.I. Rampur, P.S. Rampur Korba, District Korba, Civil & Revenue District, Korba, C.G.

**---- Petitioner****Versus**

1. State of Chhattisgarh through its Secretary, Public Works Department, Mahanadi Bhawan, Mantralya, New Raipur, C.G.
2. Chief Engineer, P.W.D. , Bilaspur Region, Bilaspur, C.G.
3. Executive Engineer, P.W.D. Korba Division, District Korba, C.G.
4. Superintending Engineer, P.W.D. Korba Division, District Korba, C.G.
5. Sub-Divisional Officer, P.W.D. Sub-Division, Korba, District Korba, C.G.

**Respondents**


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| For Petitioner        | : | Shri K. Rohan under instruction of Smt. Naushina Ali, Advocate |
| For Respondents/State | : | Smt. Smita Ghai, Panel Lawyer                                  |

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

The present writ petition has been filed challenging the order dated 17.05.2012 whereby the claim of the petitioner for compassionate appointment has been rejected holding it to have been moved at a belated state.

2. According to the counsel for the petitioner, the death of the employee took place in the year 2006 and the petitioner moved an application claiming compassionate appointment in the year 2012 which was rejected by the impugned order dated 17.05.2012 leading to the filing of the present writ petition.

3. The record reflects that immediately after death of the employee, the elder brother of the petitioner moved an application for compassionate

appointment but after sometime, he did not pursue the same. Subsequently, the present petitioner filed his claim for compassionate appointment in the year 2012. On a query being put to the counsel for the petitioner as to why the elder brother of the petitioner could not pursue his claim for compassionate appointment, the counsel could not give satisfactory answer.

4. Admittedly, the present petitioner moved an application for the first time for employment on compassionate ground after about six years of the death of the employee, whereas the same ought to have been made promptly. The very fact that the petitioner could survive for almost 6 years after death of the employee itself is sufficient to infer that the family had sufficient means to sustain themselves and further proof that it is not a case where they were in a state of penury or destitute.

5. Considering the fact that since the petitioner has survived well for about six years after death of the employee, the reason 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. Thus, the case of the petitioner for grant of compassionate appointment at this belated stage would amount to providing employment de hors the constitutional scheme of employment.

6. 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.

7. 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.”

8. 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."

**9.** 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.

**10.** As a result, the present Writ Petition being devoid of merit is liable to be and is accordingly dismissed.

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