

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No. 2837 of 2015**

Hem Kumar Pujari S/o Late Shri Sidhi Ram Pujari, aged about 22 years,  
R/o Mangal Kot Para, Barsur, P.S. & Post Office Barsur, Civil and  
Revenue District Dantewada, Chhattisgarh

---- Petitioner

**Versus**

1. Chhattisgarh State Power Distribution Company Limited through its Managing Director, Chhattisgarh State Power Distribution Company Limited, Dangniya, Raipur, District Raipur, Chhattisgarh
2. Chhattisgarh State Power Distribution Company Limited through its Director General Manager, Chhattisgarh State Power Distribution Company Limited, H R D Dangniya, Raipur, District Raipur, Chhattisgarh
3. Executive Engineer (Meter Cum Sub Station) Division, Chhattisgarh State Power Transmission Company Limited, Jagdalpur, District Jagdalpur, Chhattisgarh

---- Respondents

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| For Petitioner  | : | Shri Sunil Sahu, Advocate |
| For Respondents | : | Shri Majid Ali, Advocate  |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****22.01.2016**

The petitioner through the present writ petition has sought for a direction to the respondents to consider his case for grant of compassionate appointment on account of death of his father on 06.02.2005.

2. The facts relevant for adjudication of the petition are that the father of the petitioner died in harness on 06.02.2005. Thereafter the claim for compassionate appointment was sought by the elder brother of the petitioner. Since the claim of the elder brother of the petitioner was not considered by the respondents, he preferred a petition i.e. Writ Petition (S) No. 603/2007 before this Court which was disposed of on 04.08.2009 with a direction to the respondents to consider and decide the case of the petitioner's brother within a

period of four months. The order passed by the writ Court was duly complied with and the representation of the petitioner's brother was rejected on 16.11.2009 vide Annexure P-3. After rejection of his claim, there was no agitation against the said order dated 16.11.2009 by the brother of the petitioner namely Ghasiram Pujari. Subsequently, the present petitioner for the first time moved an application for grant of compassionate appointment on 13.11.2014 which has till date not been considered by the respondents leading to the filing of the present writ petition.

3. Admittedly, initially the claim for grant of compassionate appointment was made by the elder brother of the petitioner which stood rejected vide order dated 16.11.2009 to which there was no challenge by him. Thereafter, the petitioner for the first time filed his claim application for grant of compassionate appointment on 13.11.2014 i.e. almost 10 years after death of the employee. When the claim of one of the family members of the deceased employee was duly considered and rejected, the same cannot be reagitated or claimed by another member of the deceased employee.

4. The very fact that the petitioner could sustain himself for almost 10 years after death of the deceased employee is sufficient indication of his not being in penury or financial crisis. The object for grant of compassionate appointment does not exist any further as the compassionate appointment is to tide over the immediate financial problem of the dependants of the deceased employee.

5. 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.

**6.** 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.”

**7.** 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.”

8. 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 any direction to be issued to the respondents for grant of compassionate appointment to the petitioner at such a belated stage.

9. Thus, only on the ground of delay, this Court is not inclined to entertain the present writ petition and the same is dismissed.

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