

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 67 of 2017**

Waseem Khan S/o Late Mr. Mahmood Khan, Aged About 24 Years R/o Mohalla
Rasulpur, Vikaskhand Ambikapur, Tahsil Ambikapur, District Surguja,
(Chhattisgarh)

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of Home Ministry,
Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. State Of Chhattisgarh Through The Secretary, Department Of Tribes &
Scheduled Caste Development, Mahanadi Bhawan, New Raipur, District Raipur
Chhattisgarh
3. State Of Chhattisgarh. Through Deputy Secretary, Govt. Of Chhattisgarh
General Administration Department, New Raipur Chhattisgarh
4. Director, Department Of Tribes & Scheduled Caste Development, Mahandi
Bhawan, New Raipur, District Raipur Chhattisgarh
5. Commissioner Department Of Tribes & Scheduled Caste Development Block 4D
Ground Floor, Indrawati Bhawan, New Raipur Chhattisgarh
6. Assistant Commissioner, Department Of Tribal Development, Ambikapur, District
Surguja Chhattisgarh
7. Collector, District Surguja Chhattisgarh
8. Additional Collector, Ambikapur, District Surguja Chhattisgarh
9. Chief Executive Officer, Janpad Panchayat, Ramchandrapur, P.O. Ramanujanj,
District Surguja Chhattisgarh

---Respondents

For Petitioner : Shri Achyut Tiwari, Advocate.

For Respondent/State : Shri A.S.Kachhwaha, Additional Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Pritinker Diwaker, J.

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

20/03/2017

1. This writ appeal is against the judgment by which the learned Single Judge has refused to come to the aid of the Appellant.
2. We have heard the learned counsel for the Appellant and the learned counsel for the Department.
3. The Appellant was extended the benefit of compassionate appointment. He was offered appointment as Peon. He accepted it and joined the services. Thereafter, according to him, he turned around to ask for the post of Assistant Grade III because such posts were available as vacant even as on the date he was appointed as Peon. It is also stated that he had staked claim against such post even at that point of time.
4. The plethora of judgments which amounts to precedent law on the issue, including those referred to by the learned Single Judge in the judgment impugned in this writ appeal, unequivocally show that compassionate appointment once enjoyed after its acceptance, cannot thereafter generate any fresh or additional compassion to change the post to a higher one or for a person to be admitted to a higher post on compassionate ground. We would also recall that compassionate appointment is essentially a need based culling out of a vacancy from those which were available to open merit candidates to come up by competition. The fundamental purpose of such a recruitment is to provide immediate succor to an unfortunate family which would be deprived of the bread winner's support upon the death of a government servant. Once a compassionate appointment is extended, it is

not open to the recipient to thereafter sit to choose for a better grade of appointment on scales of compassion.

5. For these reasons we cannot but agree with the decision of the learned Single Judge. Resultantly, this writ appeal fails.

6. For the aforesaid reasons, the writ appeal is dismissed in *limine*.

Sd/-

(Thottathil B. Radhakrishnan,)
CHIEF JUSTICE

Sd/-

(Pritinker Diwaker)
JUDGE