

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 6675 of 2016**

Jitendra Kumar Sidar S/o Late Shri Tarachand Sidar, aged about
 26 years R/o Village Sarvani, Post Jatri, Via Pussore, District Raigarh
 (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of School Education, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (Chhattisgarh)
2. Director, Public Instructions, Indrawati Bhawan, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (Chhattisgarh)
3. Collector, Raigarh, District Raigarh (Chhattisgarh).
4. District Education Officer, Raigarh, District Raigarh (Chhattisgarh).
5. Block Education Officer, Block Pussore, District Raigarh (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Dhani Ram Patel, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06/03/2017**

The claim of the petitioner in the present petition is for a direction to the respondents for considering the case of the petitioner for grant of compassionate appointment.

2. The relevant dates for deciding the present petition are that the petitioner was aged about 26 years at the time of filing of the present petition. The claim for compassionate appointment is against the death of the father of the petitioner who died in harness on 09.01.2002 while working as a Head Master in Middle School, Tinmini, Pussore, District Raigarh. Immediately thereafter, mother of the petitioner had filed an application for compassionate appointment on 04.02.2002 but she did not pursue the same any further

neither has she challenged the inaction on the part of the respondents till now. The present petitioner attained the age of majority in November, 2008. Thereafter, for the first time he moved an application for grant of compassionate appointment on 10.06.2015. From the aforesaid facts itself it reveals that the mother has not claimed for compassionate appointment. The son attained the age of majority in November, 2008 and he claimed for compassionate appointment for the first time on 10.06.2015 i.e. after about 7 years from the date of attaining majority and about 13 years after the date of death of the deceased employee.

3. The law in respect of grant of compassionate appointment is well settled, that the compassionate appointment is granted to tide over the immediate financial crisis which the family of the deceased employee suffers on account of the death of the employee. But in the instant case the petitioner has admittedly filed the application for compassionate appointment after about 7 years from the date of attaining majority and after about 13 years from the date of death of the employee which itself shows that he and his family members sustained themselves for these periods and therefore they do not appear to be in the stage of penury which is the object behind grant of compassionate appointment.

4. The Supreme Court in a decision reported in (2012) 13 SCC 412 (Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh) after having considered all the aspects of compassionate appointment, 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.”

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.”

5. In the matter of **Haryana State Electricity Board and another vs. Hakim Singh**¹ the Supreme Court held that “the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependants on account of the untimely demise of its sole earning member.”

6. Further, in case of **Union of India & Another vs. Shashank Goswami and Another**² the Supreme Court has held as under :

10. As a rule public service appointment should be made strictly on the basis of open invitation of applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis and not to confer a status on the family. Thus, applicant cannot claim appointment in a particular class/group of post. Appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.”

¹ 2007 AIR SCW 6060

² (2012) 11 SCC 307

7. In addition, very recently in case of **MGB Gramin Bank Vs. Chakrawarti Singh**³ the Supreme Court in a very categorical term has held as under :

6.....The consideration for such employment is not a vested right. The object being to enable the family to get over the financial crisis.”

8. An “ameliorating relief” should not be taken as opening an alternative mode of recruitment to public employment. Furthermore, an application made at a belated stage cannot be entertained for the reason that by lapse of time, the purpose of making such appointment stands evaporated.”

8. For the foregoing reasons and taking into consideration the judicial pronouncements referred to as above and also the fact that the application for compassionate appointment being made at a belated stage, this Court does not find any strong case made out for a direction to the respondents for grant of compassionate appointment.

9. Since the instant writ petition suffers from delay laches, it deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

³ (2014) 13 SCC 583