

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.2728 of 2017**

- Smt. Sulochana Netam W/o Late Shri Anil Kumar Netam, Aged About 27 Years R/o Bahulpara, Post Gadhdongri, Tahsil Nagri District Dhamtari Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Home (Police) Department, Mahanadi Khand, Mantralaya, New Raipur, P. S. Rakhi, District Raipur (Chhattisgarh).
2. The Inspector General Of Police, Police Headquarter, New Raipur, District Raipur (Chhattisgarh)
3. The Assistant Inspector General, Police Headquarter, New Raipur, District Raipur (Chhattisgarh)
4. The Superintendent Of Police, Special Task Force, Baghera, Durg, District Durg Chhattisgarh.

---- Respondents

For Petitioner	:	Shri D. N. Prajapati, Advocate
For Respondents	:	Shri Avinash Singh, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/11/2017**

Heard.

1. The petitioner has filed this petition being aggrieved by rejection of claim for grant of compassionate appointment upon death of her husband.
2. Facts necessary for decision of the case are in narrow encompass.

Husband of the petitioner while working as Constable in the Police Department, died in harness on 11-01-2017. At the time of death of the employee, the petitioner-widow filed an application for compassionate

appointment on 13-02-2017. This application was however rejected by the impugned order dated 06-04-2017. The reason assigned for rejection of application was that in view of the provisions contained in Circular dated 14-06-2013, which was amended vide Circular dated 29-08-2016, as father-in-law of the petitioner i.e. father of the deceased employee is in government service, the petitioner would not be entitled to compassionate appointment.

3. Learned counsel for the petitioner argued that as object of granting compassionate appointment is to provide immediate financial help to the dependents of the deceased employee, in appropriate case, where a member of the family is living separately and not providing any financial aid to other dependents of the deceased employee, claim of compassionate appointment could not be denied as this would be against the very object of policy of compassionate appointment. Referring to various documents on record, it is submitted that there is overwhelming evidence, which shows that the petitioner-widow is not residing with her father-in-law and she is not being provided any kind of financial help from her father-in-law. Therefore, it is argued, the rule needs to be construed rationally to exclude from its rigor those cases, where one of the member of the family of the deceased government servant, otherwise in employment, is residing separately and not providing any financial help and support to the other dependents of the deceased government servant.

4. On the other hand, learned State counsel would submit that the policy of compassionate appointment have been framed by the Executive in their own wisdom to provide benefit, strictly in accordance with the provisions of the policy and unless the entitlement is ensured in terms and provisions of the policy, it could not be claimed, dehors of the policy of compassionate appointment. He submits that the policy of compassionate appointment specifically provided that

if any member of the family is in government service, then dependents of the deceased government servant, who died in service, will not be entitled to compassionate appointment. He submits that in such cases, it is not required to be seen whether or not, the other earning member of the said family was living with other dependents and providing them financial support.

5. The object of granting compassionate appointment is to provide immediate succor to the dependents of the deceased government servant. The policy aims at protecting dependent members of the family of the deceased government servant from acute financial stress, starvation and vagrancy.

6. The policy dated 14-06-2013 was amended vide Circular dated 29-08-2016 to provide that where any member of the family of the deceased government servant is already in government employment, the other member of the family would not be entitled to compassionate appointment. The policy read as it is, clearly shows that the object was only to avoid grant of compassionate appointment to any other member of the family on the assumption that the other surviving member of the family, who is earning, would be taking care of other dependent members of the family. If this ideal situation prevails, logically, merely because one of the members of the family has died, any other member of the dependent family may not be entitled to compassionate appointment.

However, there may be exceptions where more than one members of the family may be earning and one of them is living separately and not providing financial assistance to the family. Illustratively, there may be situation where wife and children are dependent upon the government servant and one of the son may be also in government service. In that case, government servant dies, it will have to be assumed that the family would not suffer starvation because

one of the son is already in government service. But, if it is found that the earning son had already left the family and living separately and not providing financial help to other dependent of the family, in such cases, death of a government servant may leave all other dependents without any source of income to meet two ends.

7. Present is a case where the petitioner's emphatical claim is that her father-in-law, who is in government service is living separately and not providing any kind of financial help to the family of deceased government servant. There is 10 months old daughter of the deceased government servant. The petitioner is not in employment and was fully dependent on her husband, who died. In a situation like this, denial of compassionate appointment would be against the very spirit and object of compassionate appointment.

8. The policy of the respondents does not deal with this kind of contingency. Mechanical rejection of the claim on the ground that the father-in-law is in government service, therefore, compassionate appointment would not be granted may result in grave hardship apart from frustrating the object of compassionate appointment.

9. In the considered opinion of this Court, in a case, where claim of compassionate appointment is made on the ground that the other member of the family had started living separately and not providing any financial help to the remaining dependent members of the family, who are at lurch, factual enquiry ought to be made by the competent authority to arrive at its own conclusion of facts as to whether this assertion of other earning member living separately is factually correct or not. If it is found, as a matter of fact, that the other earning member of the family at the time of death had already started living separately and not providing financial assistance to the remaining

dependents of the family, compassionate appointment must follow to eligible dependent of the family. However, in the enquiry, if it is found that the claim is only to get employment without there being any need because other earning member of the family is not living separately and providing financial support, compassionate appointment may not follow. The aforesaid enquiry is required to be done even though the policy does not categorically state so. The State should consider by incorporating amendments in the policy to deal with this such contingency where it is found that on the date of death of government servant, the other earning member was living separately and not providing any financial help.

10. In the present case, I am inclined to issue direction to the respondents to hold enquiry in the matter to verify the petitioner's claim that her father-in-law is living separately and not providing financial help and therefore, the petitioner is in need of compassionate appointment. The impugned order is set aside and the matter is remitted to the Superintendent of Police, Special Task Force, Durg. The petitioner may submit all necessary documentary evidence in support of her claim that her father-in-law is not providing financial help and living separately. In the enquiry, if it is found that the petitioner is not getting financial help and father-in-law is living separately, the petitioner's case for grant of compassionate appointment should be considered favourably. The enquiry should be made within a period of three months from the date of receipt of a copy of this order by the Superintendent of Police, Special Task Force, Durg.

11. Accordingly, this petition is finally disposed off.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge