

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT APPEAL NO. 210 OF 2013

Manoj Kumar Baghel, S/o Shri Ram Prasad Baghel, aged about 20 years,
Village- Bandapani, Post- Gurkot, Tahsil- Dabra, District Janjgir-Champa
(C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through the Secretary Woman and Child Development Department, DKS Bhawan, Raipur, District Raipur (C.G.)
2. The District Programme Officer, Woman and Child Development, Janjgir-Champa, District Janjgir-Champa (C.G.)
3. The Collector, Janjgir-Champa, District Janjgir-Champa (C.G.)
4. The Additional Collector, District Janjgir-Champa (C.G.)
5. The Programmer Officer, Ekikrit Bal Vikas Pariyojna, Navagarh, District Janjgir-Champa (C.G.)

... Respondents

For Appellant	:	Mr. Dheerendra Pandey, Advocate.
For Respondents	:	Mr. B. Gopa Kumar, Dy. Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Thottathil B. Radhakrishnan, C.J.

19/06/2017

1. This Writ Appeal is by the Writ Petitioner.
2. We have heard the learned Counsel for the Appellant and the learned Deputy Advocate General.
3. Appellant's mother, Smt. Pushpa Nirala (Baghel), was working with the Respondents. She died in harness on 11.2.2000. The Appellant was then a minor. He attained majority on 8.1.2006. He applied for compassionate appointment on 28.1.2008. Making reference to Clause-7 of the Circular dated 22.1.2007, the competent authority rejected that application on the ground that the application was made beyond the period of 7 years from the date of death of the employee, i.e., the mother of the Appellant.

4. Learned Counsel for the Appellant argued that the learned Single Judge was unjustified in dismissing the Writ Petition and that it ought to have been held that the application for compassionate appointment was made in time. He stated that by virtue of the Circular of 2007 the period for filing an application for compassionate appointment was 3 years. According to the learned Counsel for the Appellant, such period should be counted from the date on which the Appellant attained majority.

5. The fact of the matter remains that as per Clause-7 of Circular dated 22.1.2007, the application ought to have been filed within a period of 7 years from the date of death of the employee concerned. The Appellant's mother died on 11.2.2000. The application for compassionate appointment ought to have therefore been filed before 11.2.2007. Admittedly, even on that date, i.e., 11.2.2007, the Appellant was a major, he having attained majority on 8.1.2006. Therefore, there was no legal incapacity for the Appellant to submit application for compassionate appointment. There is no provision for enlargement of time in such a manner that the period for filing the application should run from the date on which the dependant attained majority. Be that as it may, in the case in hand, such question does not arise primarily because, going by the admitted facts, the Appellant had attained majority even before 11.2.2007, the date on which the application should have been filed in terms of Clause-7 of Circular dated 22.1.2007.

6. The learned Single Judge, as rightly pointed out by the learned Deputy Advocate General, was justified in relying on different decisions of the Apex Court to hold that the question of compassionate appointment cannot be considered on an application filed with delay of such nature. The different precedents referred to by the learned Single Judge in the impugned order clearly show that the provision for compassionate

appointment is not to create a new line of recruitment. The manner in which compassionate appointment has to be made should be carried bearing in mind that it is essentially an encroachment into the zone of direct recruitment to public employment. Permissible limit for compassionate appointment is determined by the yardstick that in situations resulting out of certain unfortunate fall out of human circumstances, compassionate appointments deserve to be made to alleviate the suffering of the dependants of the employee who died in harness and to sustain the family of that employee. The learned Single Judge, in our view, was abundantly justified in holding that there was absolutely no reason which could be countenance to hold that the application made by the Appellant more than 2 years after his attaining majority had to be considered. We may also note that a governing circular being in force; consideration for compassionate appointment can be done only in terms of that circular and not otherwise. Hence, we do not find any illegality in the order of the learned Single Judge.

7. Learned Counsel for the Appellant further pointed out that following the death of Appellant's mother, her husband had applied for compassionate appointment and in terms of the then existing norms, the Government refused to consider that application on the premise that the husband is not treated as a dependant of the wife for the purpose of compassionate appointment. We are not on the correctness or otherwise of any such provision or decision. The fact remains that the rejection of the application of the spouse of the deceased government servant on that ground has become final. That cannot be treated as a platform on which there could be a further bouncing up of the claim of the Appellant who is the progeny of the deceased government servant. We find ourselves unable to be persuaded by the submission in that regard.

8. For the aforesaid reasons, we find no reason to interfere with the decision of the learned Single Judge. This Writ Appeals therefore fails.

9. In the result, this Writ Appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge