

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 1440 of 2017**

Harish Kumar Khande S/o Late Shri Dukhiram Khande, aged about 21 years,
R/o Village & Post Tanda, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of Panchayat and Social Services, Mantralaya, Naya Raipur, Raipur (Chhattisgarh)
2. Collector, Bilaspur, District Bilaspur (Chhattisgarh)
3. Chief Executive Officer, Janpad Panchayat Takhatpur, District Bilaspur Chhattisgarh. Assistant Director, Agriculture Jashpur, District Jashpur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Abhishek Sinha, Advocate
For Respondent/State	:	Shri Garry Mukhopadhyay, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****24/03/2017**

The present writ petition has been filed seeking for a direction to the respondents to consider the case of the petitioner for grant of compassionate appointment in accordance with the Policy that was enforce at the time of death of his father i.e. the deceased employee.

2. Facts of the case are that the father of the petitioner namely Dukhiram Khande who was working as a Shikshkarmi Grade-III (Teacher Panchayat), Janpad Panchayat – Takhatpur died in harness on 28.09.2011. Thereafter the petitioner moved an application for grant of compassionate appointment. The said application was processed. However, since the petitioner at the relevant point of time was not having the minimum requisite qualification, his application could not be processed. Meanwhile, by virtue of an order passed by this Court in Writ Petition No. 5780 of 2016 dated 24.01.2017 the respondents modified the scheme for grant of compassionate appointment to the extent that in case the children of

the employee who died in harness do not fulfill the minimum required qualification, their case can be considered for compassionate appointment against the post of Panchayat Secretary. This modification was issued by the State Govt. on 08.01.2016. Thereafter, case of the petitioner was duly processed in accordance with the modified scheme and his name was reflected to be a suitable candidate for grant of compassionate appointment in the list that was prepared which is enclosed with this writ petition as Annexure P-4. However, subsequent orders have been passed not to grant compassionate appointment to the petitioner.

3. The petitioner apprehends that perhaps the subsequent decision of the State Govt. dated 24.08.2016 whereby it has been ordered that modification made on 8th January, 2016 in the scheme for compassionate appointment would have a retrospective effect is coming in his way.

4. However, this aspect stands adjudicated in Writ Petition (S) No. 5780 of 2016 wherein this Court has already held that the circular of the State Govt. dated 24.08.2016 is not justified and set aside the same holding it to be illegal and bad in law.

5. In view of the fact that this Court has already held that the circular dated 24.08.2016 to be bad in law, therefore, case of the petitioner is liable to be considered in accordance with the modified scheme as per circular dated 08.01.2016.

6. Accordingly, the present writ petition stands disposed of with a direction to the respondents to pass an appropriate order after scrutinizing the case of the petitioner in accordance with the rule ignoring the circular dated 24.08.2016. Needless to mention that since the death of the employee was about 5 ½ years ago, the respondents shall take a decision expeditiously preferably within a period of three months from the date of copy of this order is received by the respondents.

Sd/-
(P. Sam Koshy)
JUDGE