

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5399 of 2016**

- Ramakant Sahu S/o Late Gend Ram Sahu, Aged About 23 Years R/o Near Government Hospital Ward No.13, Bilaspur Road, Baloda, Thana Baloda, Tahsil Baloda, Distt. Janjgir Champa, (Chhattisgarh)

---- Petitioner**Versus**

1. Chhattisgarh State Power Distribution Company Limited Through Its Managing Director, Danganiya, Raipur, (Chhattisgarh)
2. The Chief Engineer, Welfare Region, Chhattisgarh State Power Distribution Company Limited, Bilaspur, Distt. Bilaspur, (Chhattisgarh)
3. Superintending Engineer, (O & M) Circle, Chhattisgarh State Power Distribution Company Limited, Champa, Distt. Janjgir Champa, (Chhattisgarh)
4. The Executive Engineer (Civil) Division, (O & M) Dn. Chhattisgarh State Power Distribution Company Limited, Champa, Distt. Janjgir Champa, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Deepak Jain, Advocate
For Respondents	:	Shri KR Nair, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****03/04/2017**

1. Petitioner's father Late Gend Ram Sahu was working as Lineman Grade-II with the respondent. He died in harness on 19.07.2009. At the said time the petitioner was only 16 years old, his Date of Birth being 26.04.1993. The petitioner attained the age of majority in April, 2011. He applied for grant of compassionate appointment on 17.07.2013, which came to be rejected on 06.10.2015.

2. It is argued by Shri Deepak Jain, learned counsel for the petitioner that when the petitioner's mother applied for payment of dues admissible to the dependents of the deceased government servant, including the benefit of compassionate appointment, she was informed vide Annexure P-3 dated 01.09.2009 that for payment of financial benefits admissible to the family of Late Gend Ram Sahu, she should submit succession certificate issued by the Court of competent jurisdiction, therefore, it is presumed that her application for compassionate appointment was also rejected. Immediately after attaining majority, the petitioner applied for grant of compassionate appointment which has not been considered although under the extant policy the petitioner is entitled to be given appointment on compassionate ground.
3. Per contra, Shri KR Nair, learned counsel for the respondent CSPDCL would submit that the application for grant of compassionate appointment should be moved by the major dependent of the government servant, who is entitled under the guidelines, within a period of one year from the date of death of the employee. The petitioner being less than 18 years of age could not have moved such application within the said time, therefore, his application moved after more than 4 years of the death was not maintainable.
4. It is the settled position of law that an application moved for compassionate appointment by dependent of a deceased Government servant dying in harness after attaining the age of majority is not to be considered unless the guidelines provide for such relaxation for moving application after attaining majority. It is also settled that the policy for grant of compassionate appointment is not to be treated as source of recruitment, but is a measure only to provide succour to the dependent of the deceased government

servant to tide over the immediate financial crisis, therefore, grant of compassionate appointment after several years of the death is not permissible. (See: **Union of India and others v. Bhagwan Singh**¹, **Jagdish Prasad v. State of Bihar and another**², **Haryana State Electricity Board v. Naresh Tanwar and another**³, **Haryana State Electricity Board and another v. Hakim Singh**⁴, **National Hydroelectric Power Corporation and another v. Nanak Chand and another**⁵ and **State of U.P. and others v. Ram Sukhi Devi**⁶)

5. In the case at hand also, petitioner's mother never approached this Court when her application was not dealt with on merits but was only informed to obtain succession certificate for receiving the financial benefits. Petitioner himself attained the age of majority in April, 2011 and yet the application for grant of compassionate appointment was moved in October, 2015.
6. Considering the fact that the extant guidelines Annexure R/6 does not provide for extension of time for making such application to a minor dependent of the employee, merely because he attained the age of majority after several years from the date of death, the time allowed for moving application for compassionate appointment cannot be extended. If that can be done in case of petitioner that shall have to be done in a case where the deceased has left one year old child who attains majority after 17 years. This Court in exercise of powers under Article 226 of the Constitution of India cannot rewrite the guidelines issued by the CSPDCL. It is in the exclusive domain of the employer to lay down the conditions making dependents of the deceased employee entitled for grant of compassionate

1(1995) 6 SCC 476

2(1996) 1 SCC 301

3(1996) 8 SCC 23

4(1997) 8 SCC 85

5(2004) 12 SCC 487

6(2005) 9 SCC 733

appointment on satisfaction of one or the other criteria. As long as, the circular does not suffer from any arbitrariness, this Court cannot add or subtract a new provision or condition making any person entitle to apply after limitation provided for in the guidelines.

7. There is no substance in this writ petition, it deserves to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

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