

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4680 of 2016**

- Ku. Durgeshwari Dehari D/o Late Shri Darbari Lal Dehari, Aged About 34 Years Occupation House Wofe R/o Subhash Chowk Keshkal, Thana & Tahsil Keshkal, Civil & Revenue District Kondagaon Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Mantralaya Mahandi Bhawan, Capital Complex New Raipur, Distirct Raipur Chhattisgarh
2. Deputy Director, Office Of Directorate Health Services Chhattisgarh, 3rd Floor, Indravati Bhawan, New Raipur District Raipur Chhattisgarh
3. Collector, Kondagaon, Distirct Kondagaon Chhattisgarh
4. Chief Medical And Health Officer, North Baster Kanker, Civil & Revenue Distirct Kanker Chhattisgarh

---- Respondents

For Petitioner
For State

Mr. Sunil Sahu, Advocate
Mr. Majid Ali, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****22.02.2017**

1. The present Petition has been filed assailing the order dated 26.07.2016 whereby the Respondents have rejected the claim of the Petitioner for grant compassionate appointment on the ground that the same has been filed beyond the prescribed period of limitation under the Policy of the Compassionate Appointment.
2. Learned Counsel for the Petitioner submits that the father of the Petitioner Late Shri Darbari Lal Dehari (hereinafter referred to as "the

deceased employee”) was working as Male Health Worker in the Health Department under the Respondent. According to the Petitioner the deceased employee died in harness on 02.10.2011. Subsequently, after the death of the deceased employee the Petitioner has for the first time moved his application for grant of compassionate appointment vide her application dated 28.11.2014. The Counsel for the Petitioner submits that at the relevant period of time policy dated 07.03.2011 was in force so far as the claim of compassionate employment is concerned. The said policy specifically enumerates that the claim for compassionate appointment has to be made within a period of 3 years from the date of death of the deceased employee.

3. Learned Counsel for the Petitioner further submits that said policy in clause 3 also enumerates the provision whereby it is the duty which has been casted upon the officers of the employer to intimate the family members of the deceased employee in respect of their right over the claim of compassionate appointment, which in the instant case has not been done. Therefore the claim of compassionate appointment filed belated could not have been refused. He further relied upon the decision rendered by this High Court in case of **Smt. Bhunbai Sahu vs. State** reported in **2002 (3) MPHT 36** in respect of claim for compassionate appointment made at the belated stage.
4. At this stage learned State Counsel opposing the Petition submits that the claim of the compassionate appointment specifically enumerates the period within which the claim has to be made. In the instant case claim of the Petitioner has not been made within the stipulated period and the Respondent authorities have rightly

rejected the claim on the ground of limitation. The same cannot be said to be bad in law. The authorities have acted purely in accordance with the scheme of Compassionate Appointment applicable on the date of death of the deceased employee. He relied upon the decision of the Hon'ble Supreme Court in the case of **Chief Commissioner, Central Excise and Customs, Lucknow and Others v. Prabhat Singh** reported in **2012 (13) SCC 412** wherein it has been held that the claim for compassionate appointment has to be strictly in accordance with the policy of the compassionate appointment framed by the Respondent State and thus prayed for rejection of the Petition.

5. Having heard Counsel for the parties and on perusal of the record what is relevant to consider the factual detail of the case is that the deceased employee expired on 02.10.2011. Indisputably the Petitioner has moved an application for compassionate appointment on 28.11.2014 for the first time. The Counsel for the Petitioner though tried to argue that in between she filed the application but the same was not accepted since it was not supported with any document pertaining to the deceased employee. It was refused to be accepted for want of supporting document. However, It appears that there is no documentary evidence so as to show that an earlier application was refused to be entertained by the Respondents for want of necessary information.
6. So far as the law for compassionate appointment is concerned it is by now well settled in the series of decision of the Hon'ble Supreme Court. If we look into the decisions so far as the claim of the compassionate appointment being raised on the belated stage, the

Supreme Court in the case of **Haryana State Electricity Board and Anr v. Hakim Singh** reported in **1997 AIR SC 3887** has held that “the whole object of any compassionate appointment schemes is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning members”.

7. The said stand of the Supreme Court has also been reiterated in case of **State of Gujrat and Others vs. Arvindkumar T. Tiwari and Another** reported in **2012 (9) SCC 545**.
8. At this juncture it would be trite to refer to the decision of the Hon'ble Supreme Court in case of **Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh** reported in **(2012) 13 SCC 412** reiterating the above given legal positions 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....”

9. 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.”

10. In the light of the above authoritative decision given by the Supreme Court in the aforesaid decisions and indisputably in the present case the claim for compassionate appointment has been filed by the Petitioner after the prescribed period of 3 years from the date of death of the deceased employee. It cannot be said that authorities have committed any illegality or infirmity in rejecting the claim application.
11. So far as the Judgment cited by the Counsel for the Petitioner is concerned, much water has since flown from the time the said judgment was passed.
12. The present Petition accordingly being devoid of merits deserves to be and is accordingly dismissed.

Sd/

**(P. Sam Koshy)
JUDGE**