

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 388 of 2012**

Nakchhedu S/o Jagdev (father) and Late Janki Bai (mother), Aged about 35 years, R/o Village Chhindouli Post Bawankera Police Station Tumgaon Tahsil And District Mahasamund Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, through: Secretary, Public Works Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
2. Chief Engineer (Administrative) Public Works Department Raipur District Raipur Chhattisgarh
3. Superintending Engineer, National Highway Division, Public Works Department, Raipur, District Raipur Chhattisgarh
4. Sub Divisional Officer Public Works Department National Highway Sub Division Pithoura District Mahasamund Chhattisgarh

----Respondents

For Petitioner	:	Mr. V.K. Pandey, Advocate
For State	:	Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/09/2018**

1. The challenge in the present writ petition is to the order Annexure P/1 dated 28.10.2010 passed by the Chief Engineer, Administration, Public Works Department, Raipur rejecting the claim of the petitioner for compassionate appointment on the ground that the mother of the petitioner i.e. the deceased employee was not a regular employee under the contingency establishment.
2. The counsel for the petitioner submits that the order Annexure P/1 itself shows that the mother of the petitioner was working in the contingency establishment and the service records which has been produced along with the writ petition as Annexure P/2 would reveal that the mother of the petitioner was a permanent gang man as is

reflected from the entries made by the Sub-Divisional Officer as in the year 1987 itself.

3. Under the circumstances, it only has to be seen whether the rejection of the petitioner on the ground that the mother of the petitioner was not a regular contingency establishment employee is justified or not.
4. An identical issue came up for consideration recently before this Court in WPS No. 3685/2011 (Taman Lal v. State of Chhattisgarh & Anr.), which was allowed on 30.07.2018. This Court while considering the entire facts and circumstances of the case had categorically held that the requirement for compassionate appointment was not a regular contingency employee, but the requirement was that the employee should be a permanent gang man under the contingency establishment. The requirement for regularization was not at all reflected from the scheme for compassionate appointment.
5. Since this Court has already taken a decision in the aforesaid judgment of "Taman Lal" (supra), the present petition also being identical in nature deserves to be and is accordingly allowed in similar terms. The impugned order Annexure P/1 therefore is held to be bad in law and is accordingly set-aside. Once when the department itself accepts the fact that the mother of the petitioner was a permanent gang man in the contingency establishment, the respondents were duty bound to consider the case of the petitioner for compassionate appointment.
6. As a consequence of the setting aside of the impugned order

Annexure P/1, the respondents are directed to reconsider the case of the petitioner for grant of compassionate appointment subject to her fulfilling other requirements under the policy.

7. Let this exercise be undertaken and finalized within a period of 90 days from today.
8. The writ petition with the aforesaid directions stands allowed.

Sd/-
(P. Sam Koshy)
Judge

Ved