

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2329 of 2018

Chandrakant Yadav S/o Late Chamru Ram Yadav, aged about 33 years, R/o Shanti Nagar, Jagdalpur, District Jagdalpur (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh, Through - its Secretary, Department of Water Resources, Ministry, Naya Raipur, PO & PS Rakhi, District Raipur (C.G.).
2. Chief Engineer, Water Resources Department, Sihava Bhawan, Civil Line, Raipur, District Raipur (C.G.).
3. Superintending Engineer, Water Resources Department, Jagdalpur, District Jagdalpur (C.G.).

---Respondents

For petitioner	:	Shri Surfaraj Khan, Advocate.
For State	:	Ms.M.Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/03/2018

1. The present Writ Petition has been filed seeking direction to the respondents regarding claim of compassionate appointment.
2. The disputed fact in the instant case is that, the father of the present applicant had died in harness on 30/11/2006. The petitioner in the present case also moved an application for compassionate appointment on 01/12/2006. Thereafter according to the petitioner, his claim was under consideration till now and till date the respondents have not rejected the claim of the petitioner at any point of time. It is also the contention of the petitioner that, the respondents have kept the name of the petitioner in the

live register till now which shows that his claim can be considered any time and thus prayed for suitable direction in this regard.

3. This Court however is of the opinion that the present petition suffers from inordinate delay and latches. The death of the deceased was in November-2006. The application moved was in December-2006. The present Writ Petition is filed in March-2018 i.e. after about more than 12 years. 12 years is a considerable long period for making claim for compassionate appointment though the petitioner had been periodically making representations to the respondents.

4. The simple reason for which this Court is not inclined to entertain the petition is that, if the applicant could survive for these 12 years without the appointment being granted to him itself gives a strong inference against the applicant that he had sufficient means to sustain himself.

5. Under the circumstances, exercising writ jurisdiction of this Court under Article 226 for considering the case of compassionate appointment after 12 years would open a Pandora box of those stale claim cases which have not been considered by the respondents till now or which have not been pressed by the respective claimants.

6. The Supreme Court in case of State of Gujarat and Others Vs. Arvindkumar T. Tiwari & Another, 2012 (9) SCC 545, has held as under:

“8. It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. As claim to be appointed on such a ground, has to be considered in accordance with the

rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased.however, before a candidate is considered for a post or even for admission to the institution, he must fulfill the eligibility criteria.”

7. The same view has further been re-iterated by the Supreme Court in case of State of Uttar Pradesh and Others Vs. Pankaj Kumar Vishnoi (2013(11)SCC 178).

8. The question of delay and laches also came to be considered very recently by the Supreme Court in case of **State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others** [2013 12 SCC 179] in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of court with inordinate delay, and held as under :

"In State of T.N. v. Seshachalam[8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

...filing of representations alone would not save the period of limitation.

Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be

attracted as it is well known that law leans in favour of those who are alert and vigilant.”

9. Further, in the case of **Local Administration Department and Another Vs. M.Selvanayagam @ Kumaravelu, 2011 (13) SCC 42**, the Supreme Court reiterating the principles relating to compassionate appointment has held as under :

“11. It has been said a number of times earlier but it needs to be recalled here that under the scheme of compassionate appointment, in case of an employee dying in harness one of his eligible dependents is given a job with the sole objective to provide immediate succour to the family which may suddenly find itself in dire straits as a result of the death of the bread winner. An appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind. 12. Ideally, the appointment on compassionate basis should be made without any loss of time but having regard to the delays in the administrative process and several other relevant factors.....”

10. The Writ Petition thus deserves to be and is accordingly rejected.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE