

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 5879 of 2011

Prakash Das Manikpuri S/o Late Bharat Das Manikpuri, aged about 22 years, R/o Ward No.4, Gandai Pandariya, Chhuikhadan, District Rajnandgaon (C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, School Education Department, D.K.S. Bhawan, Raipur (C.G.).
2. Collector, Rajnandgaon (C.G.).
3. Commissioner (Admn.), Higher Education, Directorate, Govt. Science College Campus, Raipur, District Raipur (C.G.).
4. Principal, Govt. Pt. J.L.N. Arts & Science, P.G. College, Bemetara, District Durg (C.G.).

---Respondents

For petitioner	:	Shri Pragalbha Sharma, Advocate.
For State	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/09/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/2 dated 29/12/2008 whereby the claim for compassionate appointment filed by the petitioner has been rejected on the ground that, the same has been filed beyond the period of 3 years from the date of death of the deceased employee.

2. The facts of the case in brief is that, the father of the petitioner namely Late Bharatdas Manikpuri was working under the respondents as a Watchman, died in harness on 20/05/2000. At the time of the death of the father, the petitioner was a minor who attained the age of majority in the year

2007 and thereafter he immediately moved an application for compassionate appointment on 02/01/2008 which finally stood rejected vide the impugned order Annexure-P/2 dated 29/12/2008 holding that the application has been filed beyond the prescribed period provided under the scheme for compassionate appointment.

3. The contention of the counsel for the petitioner is that, after the death of the father of the petitioner on 20/05/2000, the mother of the petitioner i.e. the wife of the deceased employee had moved an application in the year 2000 itself and which stood undecided. That pending consideration before the authorities mother also died on 20/12/2005 and therefore there was no occasion for the petitioner to move an application at that point of time for compassionate appointment. The application for compassionate appointment which was moved by the mother of the petitioner stood undecided by the respondents. Therefore it is a case where the claim of the petitioner would fall under the term of recurring cause of action and the claim of the petitioner on attaining the age of majority cannot be said to be belated.

4. He further submits that, it is a case where the respondents have not properly appreciated various provisions of scheme that were applicable.

5. In the instant case, what is relevant to be consider is that, as on date, the petitioner has lost both his parents. The father who was a deceased employee died first on 25/05/2000 and the mother who had applied for compassionate appointment immediately also died pending consideration of

her application on 20/12/2005. Even on the date of death of mother the petitioner was a minor.

6. Given the aforesaid facts that the petitioner that was a minor at the relevant point of time, he could not have moved an application for compassionate appointment as there was no provision of providing employment for minor under any circumstances.

7. Therefore, the petitioner immediately on attaining the age of majority applied for the same on 02/01/2008 which subsequently stood rejected by the respondents vide order Annexure-P/2 dated 29/12/2008.

8. The object of compassionate appointment always is for meeting the immediate crisis which the family of the deceased employee is put to and also is to meet the immediate financial crisis that occurs on the death of the bread-earner in the family.

9. The object of compassionate appointment is also to ensure that, the family members of the deceased employee are not put in a state of penury.

10. The State is a model employer which is supposed to ensure social justice to the persons in the State more particularly take care of the employees and the family members dependent on the Government employees. Keeping this social object in their mind, the scheme for compassionate appointment has been framed.

11. The application for compassionate appointment has not to be dealt with on hypotechnical grounds from the scheme for compassionate appointment which is applicable. It is the ends which has to be taken note of by the

authorities concerned while deciding the case rather than taking into consideration the period at which the application has been made or while rejecting the application on the ground of limitation.

12. Ignoring the aspect that, the claimant in the family of the deceased at the first instance had applied for grant of compassionate appointment which is evident from Annexure-P/4 dated 16/06/2011/12/07/2011 wherein it clearly reflects that, pending the application for consideration of compassionate appointment of the mother of the petitioner, she had died on 20/12/2005.

13. With the aforesaid facts, it further establishes the fact that it is not a case where there was no claim raised for compassionate appointment by the family members of the deceased employee promptly. There was a prompt claim raised by the widow which was not promptly considered by the respondents and before a decision could be taken, the widow had died leaving the petitioner as destitute so also a minor. The petitioner could have applied only on his attaining the age of majority which he attained only in the year 2007 before which he could not have got any employment. The petitioner promptly on attaining the age of majority had moved his application on 02/01/2008.

14. In the given facts, the authorities concerned should have taken note of the contentions as also the fact that his mother's application also went undecided.

15. This Court is of the opinion that, the petitioner herein has sufficiently and conclusively established his claim for compassionate appointment so

also the reasons why he could not have moved an application within 3 years from the date of death of the deceased employee.

16. This Court therefore is of the opinion that, the rejection of the petitioner under such circumstances is too harsh a decision by the respondents and Annexure-P/2 for the said reason is not sustainable and the same deserve to be and is accordingly set-aside.

17. Needless to mention that, the impugned order is set-aside only holding that the same being not barred by limitation.

18. So far as the other eligibility is concerned, the respondents would be free to consider the claim of the petitioner in accordance with the conditions stipulated in the scheme for compassionate appointment.

19. As a consequence, the respondents are directed to consider the case of the petitioner for compassionate appointment at the earliest preferably within a period of 90 days by issuing a suitable order.

20. The Writ Petition accordingly stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE