

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1596 of 2014**

Ashish Kumar Jaiswal S/o Late Kishore Kumar Jaiswal Aged About 23 Years R/o Rajapara Ward No. 07, Sarangarh, Tahsil Sarangarh, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, General Administration Department, Mahanadi Bhawan, New Raipur District Raipur , Chhattisgarh
2. Divisional Manager, Chhattisgarh Infrastructure Development Corporation Limited (Transport Section) Divisional Office, Bilaspur, District Bilaspur, Chhattisgarh
3. The Collector, Raigarh, District : Raigarh, Chhattisgarh
4. The Tahsildar Sarangarh, Tahsil Sarangarh, District : Raigarh, Chhattisgarh

----Respondents

For Petitioner	:	Mr. R.S. Patel, Advocate
For State/Resp. No. 1, 3 & 4	:	Ms. Sunita Jain, Panel Lawyer
For Respondent No.2	:	Mr. Anup Majumdar, Advocate along with Mr. Basant Dewangan, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/05/2018**

1. The grievance of the petitioner is the order of rejection to the petitioner for claim of compassionate appointment on 13.02.2014, so also the rejection of his claim application on 21.10.2009.
2. The brief fact of the case is that the petitioner's father namely late Kishore Kumar Jaiswal was a Driver under the erstwhile Madhya Pradesh State Transport Corporation and on bifurcation of the State, the services of the father of the petitioner stood allocated to the State of Chhattisgarh and where his services was initially taken by the respondent No.2 and in due course of time, he was on deputation sent to the office of the Tahsildar, Sarangarh, District Raigarh. The

father of the petitioner died in harness, while working in the office of the Tahsildar, Sarangarh on 04.04.2009. The petitioner had immediately raised an application for grant of compassionate appointment. The said application stood rejected initially vide order dated 21.10.2009 on the ground that the scheme for compassionate appointment in the State of Chhattisgarh was not applicable to the ex-employees of the MPSRTC.

3. Subsequently, the said scheme stood modified on 16.08.2011, wherein the respondent-State took a decision of granting compassionate appointment on the death of the employees working under the respondent No.2; however it only held that the appointment could be granted as Shiksha Karmi Grade-III.
4. The petitioner thereafter moved an application for grant of compassionate appointment on the class-IV category, which finally stood rejected vide Annexure P/1 dated 13.02.2014 holding that the claim for compassionate appointment has been filed beyond the period of 3 years from the date of death and therefore the scheme would not be applicable.
5. The counsel for the petitioner submits that it is a case where the petitioner though was an ex-employee of the MPSRTC, but was working in the office of the Tahsildar, Sarangarh on the date of death. Before the date of death, the petitioner was sent on deputation to the office of the Tahsildar, Sarangarh about two years back.
6. Under the instructions of the State Government the employees of CIDC, who have been posted in the different departments of the State Government were to be absorbed in the respective

departments in due course of time and were not to be sent back to CIDC.

7. The contention of the counsel for the petitioner is that for all practical purposes, it had to be presumed that he was no longer an employee of the CIDC, but was an employee of the State Government and therefore the scheme of the State Government would not had been applicable for the petitioner for the purpose of consideration of compassionate appointment. Under the scheme for compassionate appointment the petitioner would have easily got compassionate appointment and thus prayed for a suitable direction.
8. The counsel appearing for the respective respondents however opposing the petition submits that since admittedly the petitioner was an employee of the erstwhile MPSRTC and subsequently stood allocated to the employment of CIDC, the scheme for compassionate appointment applicable for the government employees would not be applicable, so far as the petitioner is concerned.
9. The respondents further contended that since on the date of his initial application, he did not have the requisite qualification for appointment on the post of Shiksha Karmi Grade-III, his claim was rejected and the qualification for appointment as Shiksha Karmi Grade-III was obtained by the petitioner after his claim has been rejected on an earlier occasion.
10. Having heard the contentions put forth on either side and on perusal of the record, admittedly the father of the petitioner was working in the office of the Tahsildar, Sarangarh for the past more than two years before the date of death i.e. on 04.04.2009. On the date of

death also he was working in the same establishment and was not working under the respondent No.2. Moreover, if the father of the petitioner would not have died on 04.04.2009, there are all possibilities of the services of the father of the petitioner being absorbed in the said department by virtue of the instructions issued by the State Government from time to time. The fact that the petitioner had promptly moved an application for compassionate appointment stands established from Annexure R/1, which itself is an order passed in the year 2009 i.e. the year on which the father of the petitioner had died, which shows that the petitioner's claim application had been filed within three years from the date of death.

11. Though initially there was an order of rejection, but the claim was subsequently altered to the extent of claiming compassionate appointment on any class-IV category post, the same should not have been rejected by the respondents holding the petitioner to be an employee of CIDC, whereas on the date of death and for couple of years prior to that the father of the petitioner had been working in the office of the Tahsildar, Sarangarh.
12. Given the circumstances, this Court is of the opinion that the case of the petitioner ought to have been considered in accordance with the scheme for compassionate appointment applicable for the employees of the State Government rather than treating the father of the petitioner to be an employee of the CIDC.
13. Accordingly, the impugned order Annexure P/1 deserves to be and is set-aside and it is directed that the case of the petitioner, subject to his fulfilling other eligible criteria under the scheme for

compassionate appointment applicable for a government employee, be considered and decided at the earliest preferably within a period of 4 months.

14. The writ petition thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved