

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 1708 of 2012**

Sitaram Yadav S/o late Harimangal Yadav, aged about 28 years,
R/o Jailpara Ward No. 12, Sarangarh, Tahsil Sarangarh, District
Raipur, Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Public Works Department, Mantralaya, D. K. S. Bhawan, Raipur, Chhattisgarh
2. Collector, Raigarh, District Raigarh, Chhattisgarh
3. Superintending Engineer, Public Works Department, Bilaspur Circle, District Bilaspur, Chhattisgarh
4. Executive Engineer, Public Works Department, Raigarh Division Raigarh, District Raigarh, Chhattisgarh
5. Sub Divisional Officer, Public Works Department, Sarangarh, Tahsil Sarangarh, District Raigarh, Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri R. S. Patel, Advocate
For Respondent/State	:	Ms. Sunita Jain, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

03/05/2018

The grievance of the petitioner in the present writ petition is the rejection of his candidature for compassionate appointment on the death of his father.

2. The claim of the petitioner for compassionate appointment was rejected solely on the ground that his father was not a regular employee of the department on the date of his death and therefore the petitioner

could not be granted compassionate appointment.

3. Contention of the counsel for the petitioner is that the case of the petitioner stands squarely covered by the decision of this Court in the case of Smt. Puna Bai Vs. State of Chhattisgarh decided on 19.06.2009 in WPS No. 4480 of 2006. It is also the contention of the counsel for the petitioner that the father of the petitioner was working with the respondents as a Gangman and that in due course of time, he was made a permanent Gangman and his case for regularization was also under process when he died. Annexure P-6 dated 23.08.2008 was issued whereby the services of the father of the petitioner were regularized w.e.f. 03.06.2008. Unfortunately, the petitioner's father died on 25.04.2008. According to the counsel for the petitioner, though the father of the petitioner was not a regular employee on the date of his death, undisputedly he was a permanent Gangman with the respondents. The case of a permanent employee was also required to be considered for compassionate appointment and which stands adjudicated upon in the case of Puna Bai (supra).

4. State counsel, however, opposing the petition refers to Annexure R-1, the order of the Govt. dated 07.10.2005 whereby it has been held that firstly the scheme of compassionate appointment would not be applicable for the dependents of a Gangman and secondly vide order dated 27.04.2006 it has been held that the case for compassionate appointment would be considered only in the event the deceased Gangman had been regularized in service of the department.

5. Having heard the contentions put forth on either side and on perusal of the record what reflects is that both these orders which are being relied upon by the State counsel were in fact duly considered by

the writ Court while deciding the case of Puna Bai (supra) and finally reached to the conclusion that the scheme for compassionate appointment would also be applicable for permanent Gangmen also.

6. So far as the issue whether the father of the petitioner was a permanent Gangman or not is concerned, there is absolutely no dispute and admittedly he was working as a permanent Gangman till the date of his death. Rather his case was also processed for regularization and an order was also issued though by that time he had already died.

7. Given the aforesaid factual matrix of the case, this Court is inclined to allow the writ petition in similar term as has been decided in the case of Puna Bai (supra)

8. The writ petition is accordingly allowed. The respondents are directed to consider the case of the petitioner for compassionate appointment subject to his fulfilling all other eligibility criteria under the scheme. Considering the fact that the writ petition is of the year 2012, it is expected that the respondents shall take a decision on the application of the petitioner for compassionate appointment at the earliest preferably within a period of 4 months from the date of receipt of certified copy of this order.

**Sd/-
(P. Sam Koshy)
Judge**