

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No. 550 of 2018

- Smt. Pratika Barya W/o Alok Barya Aged About 30 Years R/o Professor Colony Kawardha District Kabirdham Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary Department Of Education Mahanadi Bhawan Naya Raipur District Raipur Chhattisgarh.
2. Director Public Instructions Raipur District Raipur Chhattisgarh.
3. Collector Kawardha District Kabirdham Chhattisgarh.
4. District Education Officer Kawardha District Kabirdham Chhattisgarh.

---- Respondents

For Appellant	:	Shri Ajit Singh, Advocate
For Respondent/State	:	Shri U.N.S. Deo, Government Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

28.06.2018

1. We have heard the learned counsel for the Appellant and the learned Government Advocate quite in *extensio* in this appeal filed challenging the decision of the learned Single Judge refusing to interfere with non-granting of compassionate appointment.
2. Appellant's father died on 05.07.2007. Petitioner was married even when her father was alive. Materials show that her husband Alok Barya is working in a private telecommunication limited company. That fact is disclosed by the Petitioner in her own pleadings. After the demise of the father on 05.07.2007, the writ petition from which this writ appeal arises, was instituted in the year 2018, may be after a couple of representations. The trump card of the Petitioner is that the State Government had issued Circular on 22.03.2016, wherein married daughters were also brought within the ambit of eligible members for compassionate appointment.

3. It is settled law that compassionate appointment in public employment cannot be treated as matter of gratis by way of right to appointment by inheritance. The support given through provisions for compassionate appointment are intended to get over the financial crippling of the family of a person who died in harness. Immediate succor is the concept. Running down through series of judicial precedents handed down by the Apex Court, from **Sushma Gosain Vs. Union of India; (1989) 4 SCC 468**, the clear statement of law is that while compassionate appointment has to be given at the earliest required point of time, such appointment cannot be made to encroach into the field for the direct recruitments or other mode of appointment. It is the law that no compassionate appointment can be made unless the need to do so is found to the satisfaction of the employer, in accordance with law. Even if there is any circular bringing married daughter within the scope of compassionate appointment, the financial dependency of that married daughter on the deceased parent has to be established to the satisfaction of the employer. Otherwise, it will open up the flood gate for large scale undue compassionate appointments. That is not the policy of law. Nor is it the policy of the circular referred to by the Appellant.
4. The learned Single Judge has adverted to and considered all facts relevant for decision on the writ petition. Consideration and reasoning is in accordance with law. There is no breach of jurisdiction or failure to exercise jurisdiction the appreciation of facts and law has been done and justice has been rendered to the dismissal of the writ petition. We do not find any ground to interfere in the impugned judgment of the learned Single Judge. The same is accordingly dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge