

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 3918 of 2018

Avinash Ashish Bagh S/o Late Shri Robinson Bagh, Aged About 29 Years, Resident Of Rajeev Gandhi Ward, Near Gupta Bhawan, Fregerpur, Jagdalpur, Police Station Jagdalpur, Civil And Revenue District Bastar, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Tribal Welfare Department, Mantralaya, New Raipur, Chhattisgarh.
2. The Collector, Jagdalpur, District Bastar, Chhattisgarh.
3. The District Education Officer, Jagdalpur, District Bastar, Chhattisgarh.
4. The Assistant Commissioner, Tribal Development, Jagdalpur, District Bastar, Chhattisgarh.
5. The Block Education Officer, Darbha, District Bastar, Chhattisgarh.

---Respondents

For petitioner	:	Shri Vikas A. Shrivastava, Advocate.
For State	:	Shri Shashank Thakur, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/06/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 30/11/2017 whereby the claim of the petitioner for permitting him to join duties has been refused and his representation has been rejected.
2. The counsel for the petitioner submits that, the father of the petitioner had died in harness on 29/03/2007. Subsequently, an application was made by the present petitioner for compassionate appointment. The same was duly considered and allowed and an order was passed in his favour on 01/03/2014 appointing the petitioner as a Peon. However, the petitioner

instead of giving joining as per the order of appointment moved an application for transferring the appointment order in the name of his sister as he was not feeling well during those periods and therefore could not give his joining. The same has been rejected by the respondents on 30/11/2017.

3. According to the petitioner, he had moved an application for transferring the order of appointment in favour of his sister immediately in March-2014 itself but the respondents kept it pending for almost 3 years before rejecting it and if they would have promptly rejected the same, the petitioner would himself had given his joining as per Annexure-P/3 dated 01/03/2014.

4. The State counsel however opposing the petition submits that, it is a case where the petitioner had got an order in his favour at the behest of an order of this Court in WPS No.2483/2013 decided on 14/08/2013. Thereafter as he was not interested in his employment, he did not join his duties rather moved an application for transferring the order of appointment in favour of his sister, which otherwise was not permissible under any rules or guidelines of the State and as such the respondents have rightly rejected his claim for joining made after 3 ½ years vide Annexure-P/4.

5. Perusal of record would show that, the father of the petitioner had died in harness on 29/03/2007 and the respondents seems to have not taken any decision on his application for long which compelled the petitioner to file a Writ Petition before this High Court vide WPS No. 2483/2013. The Writ Petition got disposed off on 14/08/2013 with a specific direction to the respondent No.1 to consider the case of the petitioner in accordance with

law. The respondents in turn considered his application and also issued an order of appointment on 01/03/2014. Right from the date of death of the father i.e. 29/03/2007 till the order of appointment being passed after the Writ Petition of the petitioner was disposed off on 01/03/2014, the petitioner never showed any disinclination in joining the duties on account of ill-health. It is only after the order of appointment issued that the petitioner was reluctant.

6. The foremost factor which is reflected is that the claim of the petitioner was that for grant of compassionate appointment. A compassionate appointment is always to be given in case where the family members of the deceased employee faces penury or financial hardship. The petitioner if at all if was not in a position to undertake the employment, he should have withdrawn it at the first instance and a claim should had been made on behalf of the other dependents of the deceased employee. The petitioner having perused it for long and even filed a Writ Petition and got an order in his favour and which was acted upon by the respondents could not then turn around and refuse joining. The very fact that the petitioner refused joining and moved an application for transferring the order of appointment in favour of his sister shows that he was not interested in employment of the respondents. That it also gives a strong inference that he had sufficient means for sustaining himself after the death of the deceased employee.

7. For the reasons assigned in the preceding paragraphs, this Court does not find any strong case made out by the counsel for the petitioner calling for

an interference with the decision of the respondents in refusing grant of joining to the petitioner.

8. The Writ Petition thus being devoid of merits deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit