

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4892 of 2018

Ms. Preeti Manjhi D/o Aasman, aged about 18 years, R/o Prem Nagar Colony, Mahadev Ward No.9, Sukma District Sukma (C.G.).

...Petitioner

Versus

1. State of Chhattisgarh, Through : The Secretary, Department of Forest, Mantralaya, Naya Raipur, P.S. Rakhi, District Raipur (C.G.).
2. The Divisional Officer, Division Office, Forest Department, Sukma, District Sukma (C.G.).

... Respondents

For petitioner : Shri P.K.Tulsyan, Advocate.

For State : Shri Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/07/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 13/09/2017 whereby the claim for compassionate appointment of the petitioner was rejected by the respondents on the ground that, the father of the petitioner was in Government employment and therefore under the scheme of compassionate appointment, the petitioner becomes dis-entitled for the same.

2. The facts of the case in brief is that, the brother of the petitioner Late Dinesh Manji was posted as an Assistant Grade-III in forest department and posted at District Sukma in the office of the respondent No.2. In the course of this employment, he died in harness on 28/05/2016 on 01/06/2017. The mother of the petitioner applied for grant of compassionate appointment to

the petitioner. It is this application which stands rejected vide the impugned order on the ground that, as per the policy of the State Government dated 29/08/2016, since there already is a member in the family of the deceased in employment working with the Government, the petitioner would not be entitled for compassionate appointment.

3. The contention of the counsel for the petitioner is that, the policy of the State Government dated 29/08/2016 would not be applicable so far as the claim of the petitioner is concerned for the simple reason that, the claim of the petitioner was made prior to the amendment of the circular dated 29/08/2016 for compassionate appointment being published.

4. The second contention of the counsel for the petitioner is that, even if it is accepted that the father of the petitioner is in Government employment, even then under the policy prevailing then, there was no limit so far as the annual income of the family members of the deceased employee fixed for the purpose of excluding someone from being considered for compassionate appointment.

5. Having heard the contentions put forth by the counsel for the petitioner what has to be appreciated is the fact that, the deceased employee in the present case was the brother of the petitioner. On the date of the death of the deceased employee, the petitioner was a minor. Both the parents of the petitioner are still alive. The father of the petitioner is in Government employment and is working as a 'Peon' in the Government Higher Secondary School at Sukma.

6. What also has to be next considered is that, a compassionate appointment is always given to a person who is or was totally dependent upon the deceased employee or on the income earned by the deceased employee.

7. Merely because there is a death of the Government employee by itself would not make another member in the family entitled for compassionate appointment unless the concerned person establishes the fact that he/she was dependent on the income of the said deceased person.

8. The object of compassionate appointment is to relieve unexpected immediate hardship and distress caused to the family on the said demise of the earning member of the family. The object also is to enable the family of the deceased employee to tide-over the sudden financial crisis.

9. In 1997 1 SCC 390 in the case of Managing Director, MMTC Ltd., New Delhi & Anr. v. Pramoda Dei Alias Nayak, the Hon'ble Supreme Court in paragraph 4 has held as under:-

“4. XXXX As pointed out by this Court, the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment and that mere death of an employee does not entitle his family to compassionate appointment.”

10. From the above given legal position what is reflected is the authority concerned has to examine the dependency of the claimant on the deceased and only if it is satisfied that, but for the employment provided to family

member, the family may not be able to tide over the immediate crisis in the family, should an order be passed.

11. In 2004 7 SCC 265 in the case of Punjab National Bank & Ors. v. Ashwini Kumar Taneja it has been held that, the compassionate appointment is not to be considered as a source of recruitment. The basic intention is that on the death of the employee concerned, his family is not deprived of the means of livelihood and the object also is to ensure that the family is not put in a state of penury.

12. The compassionate appointment is only to be given in deserving cases of dependent of a Government servant dying in harness to mitigate the eminent hardship at the earliest point of time.

13. With the aforesaid legal position when the facts of the present case is compared it reveals that, the petitioner has parents to support her. The father of the petitioner is in Government service. The deceased employee was the brother of the petitioner. There is no pleading in the Writ Petition to show that, the petitioner was totally dependent upon the deceased employee. Neither has she pleaded that the petitioner is not dependent on her father.

14. Given the aforesaid facts and circumstances of the case, 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 to grant the compassionate appointment to the petitioner.

15. The Writ Petition thus being devoid of merits deserve to be and is accordingly dismissed.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE