

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 4942 OF 2015**

Hari Ram Sahu S/o late Shri Nohar Singh, aged about 31 years, R/o Village Manaud, Post Taraod, Tehsil, PS and District Balod (CG).

...Petitioner(s)

Versus

1. State of Chhattisgarh, through the Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (CG).
2. Chief Engineer, Mahanadi Godawari Kachhar, Water Resources Department, Raipur (CG).
3. Superintending Engineer, Sivnath Circle, Durg, District Durg (CG).
4. Executive Engineer, Water Resources Department, Tandula Division, Durg (CG).

... Respondent(s)

For Petitioner	:	Shri Hemant Kesharwani, Advocate.
For Respondent-State	:	Shri Chandresh Shrivastava, PL.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.08.2018

1. The challenge in the present writ petition is to the order dated 05.10.2015 whereby the claim of the petitioner for compassionate appointment has been refused by the respondents on the ground that the father of the petitioner (deceased employee) was not a regular government servant.
2. The present is a second round of litigation. The earlier round of litigation was WPS No.5211 of 2012 which was disposed of on 01.09.2015. While disposing of the writ petition, this court had set aside the earlier rejection order (Annexure P/1) and directed the respondents to consider the case of the petitioner afresh in accordance with law within a period of three months. Subsequently,

the impugned order has been passed on 05.10.2015 which is under challenge in the present writ petition.

3. The contention of the petitioner was that, the second rejection order also is on the same ground on which the earlier claim application was rejected which had been set aside by the High Court. The father of the petitioner was working with the contingency establishment of the respondents and that vide order dated 13.08.2008 (Annexure P/2) the services of the father of the petitioner was regularized and therefore rejection of the petitioner's claim on the ground of his father not being a regular government employee stands negated and the impugned order is bad in law.
4. On the contrary, the counsel for the respondent-State submits that true it is that the order of regularization was passed on 13.08.2008, but since the father of the petitioner was suffering from some ailment and on account of which one of his feet had to be amputated and as such he had not given his joining after regularization and therefore he continued to be a daily wage employee. According to the State counsel, the status of the father of the petitioner all along was that of a daily wage employee, and therefore, the petitioner would not be entitled for compassionate appointment as compassionate appointment was only to be provided in the event of deceased employee being in regular government service.
5. The counsel for the petitioner submits that the question of regularization is immaterial for grant of compassionate appointment as the scheme of compassionate appointment framed by the State includes the legal heirs of deceased who was working as permanent

gangman with the respondents. According to the petitioner, Annexure P/2 itself would clearly reveal that the initial date of appointment of the petitioner's father was 31.12.1981 and on completion of three years of service as contingency paid daily wage employee he had attained temporary status and further having worked for another 15 years would automatically entitled him the status of a permanent gangman.

6. According to the petitioner, irrespective whether the father of the petitioner was regularized or not, the fact that he was a permanent gangman is sufficient for the legal heirs to claim for compassionate appointment.
7. In the instant case, if we look at Annexure P/2 it clearly reflects that the said order regularizing the services of the petitioner was in respect of only those persons who were working in the contingency establishment who had been regularized vide order dated 13.08.2008. It is but natural that it is only those employees who are working in the contingency establishment alone who could had been granted regularization.
8. The contention of the State counsel that the father of the petitioner was a daily wage employee may not be sustainable for the reason that even if he was a daily wage employee, but his services were under the contingency establishment and his salary and other benefits were being provided under the rules applicable on the contingency paid employees. This aspect has not been considered by the respondents while deciding the claim of the petitioner.

9. Thus, the impugned order being not sustainable deserves to be and accordingly stands set aside. The matter is remitted back to the respondent No.2 to reconsider the claim of the petitioner for compassionate appointment after verifying whether the petitioner's father was a permanent gangman or not, much less whether the father of the petitioner was a contingency paid employee or not and thereafter pass an appropriate order at the earliest preferably within a period of 90 days from the date of receipt of certified copy of this order.
10. It shall be the responsibility of the petitioner to apprise the order of this court to the respondent No.2.
11. The petition accordingly stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy
Judge