

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4752 of 2015

Ku. Sapana Bhoi D/o Late Lalji Bhoi, aged about 24 years, R/o village Shringarpur, Post Chhattigirola, Police Station Saraipali, Tahsil Saraipali, Civil & Revenue District Mahasamund (C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department of School Education, Mahanadi Bhawan, New Raipur (C.G.).
2. District Education Officer, District Mahasamund (C.G.).
3. Block Education Officer, Saraipali, District Mahasamund (C.G.).

---Respondents

For petitioner : Shri Ashok Patil, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/08/2018

1. The grievance of the petitioner in the instant Writ Petition is the non-consideration of the claim of appointment under compassionate grounds by the respondents.
2. The facts of the case is that, the father of the petitioner Late Lalji Bhoi was working as an Assistant Teacher in the Government Primary School, Khair Jhitaki, village Kallu Banjari, Tahsil Saraipali, District Mahasamund (C.G.) died in harness on 28/11/1997. It is said that the petitioner at the time of death of her father was aged around 6 years and that she attained the age of majority in the year 2009.

3. The petitioner thereafter on 05/06/2015 applied for compassionate appointment and it is the contention that the same is not been processed and still pending consideration before the authorities concerned.

4. The counsel for the petitioner referring to the claim for compassionate appointment as it then stood submitted that, it was the duty casted upon the respondents to have offered compassionate appointment to the widow of the deceased employee and if the widow was not interested then the department ought to have taken consent as an interim measure for keeping the claim of compassionate appointment live till the children of the deceased employee attained the age of majority. According to him, this duty has not been complied with or followed by the respondents and that the application of the petitioner have till date not been rejected and therefore the respondents may be directed to decide the same.

5. From the factual matrix of the case what clearly reflect is that, the deceased employee died on 28/11/1997. The petitioner attained the age of majority in the year 2009. The application for compassionate appointment for the first time was moved on 05/06/2015 i.e. after a period of about 18 years from the date of death of deceased employee. Even if the date of attaining the age of majority is taken into consideration even then it is revealed that the petitioner has filed the application after about 6 years from the date of attaining the age of majority and no specific justification or substantial grounds has been narrated by the petitioner which prevented her from moving application promptly. Neither does the records of the petition show

that the mother of the petitioner i.e. the widow of the deceased employee at any point of time had requested the respondents to keep the claim of the petitioner live till she attains the age of majority or even to the extent that the widow was not willing to accept the employment at the time of the death of deceased employee.

6. Given the aforesaid facts and circumstances of the case what now has to be considered is that whether at this juncture direction could be given to the respondents for considering the claim of the petitioner for grant of compassionate appointment.

7. The law by now is well settled by a series of decisions of the Hon'ble Supreme Court as also by this High Court wherein it has been repeatedly held that the very purpose and object for framing the scheme for compassionate appointment is to ensure that the family members of the deceased employee is provided with some support financially to sustain themselves in the light of the death of the bread earner in the family.

8. The Supreme Court in a recent decision reported in (2012) 13 SCC 412 (Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh) reiterating the above given legal positions in paragraph-18 has held as under:

“18. The very object of making provision for appointment on compassionate grounds, is to provide succour to a family dependent on a government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole breadwinner. Delay in seeking such a claim is an

antithesis for the purpose for which compassionate appointment was conceived. Delay in raising such a claim is contradictory to the object sought to be achieved.”

9. Further in Paragraph-19 also the Supreme Court in very categorical terms while restricting the scope of interference in a petition for compassionate appointment has held as under:

“19. The courts and tribunals should not fall prey to any sympathy syndrome, so as to issue directions for compassionate appointments, without reference to the prescribed norms. The courts are not supposed to carry Santa Claus's big bag on Christmas eve to disburse the gift of compassionate appointment to all those who seek a court's intervention. The courts and tribunals must understand that every such act of sympathy, compassion and discretion wherein directions are issued for appointment on compassionate grounds could deprive a really needy family requiring financial support, and thereby, push into penury a truly indigent, destitute and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion.”

10. Taking into consideration the ratio of law laid down in the aforesaid judgments, this Court has no hesitation in reaching to the conclusion that the petitioner since has raised the claim application at an inordinate late stage would not be entitled for any benefits and that since the petitioner could sustain themselves for a period of 18 years from the death of deceased employee itself means that they have sufficient resource to maintain themselves and thus the petitioner for all the aforesaid reasons would not be entitled for claiming compassionate appointment at this belated stage.

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

Sd/-

(P. Sam Koshy)
JUDGE

Sumit