

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 720 of 2018**

*{Arising out of order dated 18.06.2018 passed by learned Single Judge in Writ
Petition (S) No. 3959 of 2018}*

- Deepak Kumar Singh, Son of Late Shri Chandra Kishore Singh, aged about 26 years, posted as Constable (GD), R/o Behind Police Chowki, Pachpedi Naka, Raipur, District Raipur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
2. Director General of Police, Chhattisgarh Armed Force, office at Police Head Quarter, New Raipur, District Raipur (C.G.)
3. Additional Director General of Police, Chhattisgarh Armed Force, office at Police Head Quarter, New Raipur, District Raipur (C.G.)
4. Commandant, 4th Battalion, Chhattisgarh Armed Force, office at Mana, Raipur, District Raipur (C.G.)
5. Commandant, 17th Battalion, Chhattisgarh Armed Force, office at Kabirdham, District Kawardha (C.G.)

---- Respondents

For Appellant : Shri Praveen Dhurandhar, Advocate.

For Respondents/State : Shri Prasun Bhaduri, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

15.11.2018

1. Heard counsel for the Appellant and learned Government Advocate for the State.

2. Since the writ application of the Appellant was dismissed by the learned Single Judge refusing to give any direction to appoint him on the post of ASI (Ministerial), the appeal has been preferred.
3. Appellant's father was working as a Company Commander in the 17th Battalion, Chhattisgarh Armed Force at Kabirdham. He died on 01.03.2016. The death is supposed to have taken place in certain mysterious circumstances however, the postmortem report indicates that it was a case of suicide.
4. Be that as it may, the Respondents authorities treated the death to be one in harness and, therefore, the Appellant, who applied for compassionate appointment was considered. The recommendation was also made for consideration for appointment on the post of ASI (Ministerial), but was instead appointed on the post of Constable (General Duty).
5. The learned Single Judge was of the view that there were certain deliberations made at the higher level in the Department and taking into consideration the availability of post as also that certain weightage is required to be given to dependents of those persons who may have died in Naxal violence, he came to be accommodated in a vacant post of Constable (General Duty).
6. The learned Single Judge further took note of the fact that the decision of the superior authority was communicated to him and option was given to him to either accept or refuse. However, since the Appellant accepted, he joined the post of Constable (General Duty) sometime in the year 2017 and after joining, he decided to file a writ application for his reappointment on a higher post.
7. We have taken note of the detailed return which have been filed on behalf of the State where they have brought on record the evidence of deliberations which were made and the reasons why the Appellant came to be appointed on the post of Constable (General Duty) and could not be accommodated on the post

of ASI (Ministerial). We do find that there is any deliberate mischief or arbitrariness in the decision because he was not the only one who had been treated in such a manner.

8. We also take note of the provisions of the Compassionate Appointment Policy, 2013, especially Clause 20 which categorically states that once a person accepts appointment on compassionate ground, he cannot demand or beget any change on the post or position which he had been offered by way of compassionate appointment.
9. Since it was not a case of a informed decision making, therefore, we do find any reason to interfere with the order of the learned Single Judge dated 18.06.2018.
10. Appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge