

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 7551 of 2018**

Jyoti Goswami D/o Late Bhuvneshwar Giri Goswami, Aged About 31 Years, R/o Near Milk Dairy Kotra Road, Besides Saraswati Shishu Mandir, Raigarh, District - Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Home Department, Mantralaya Mahanadi Bhawan, New Raipur, District - Raipur Chhattisgarh
2. Director General Of Police, Chhattisgarh Police Headquarters, Raipur, District - Raipur Chhattisgarh
3. Inspector General Of Police, Police Headquarters Raipur, District - Raipur Chhattisgarh
4. Superintendent Of Police, Raigarh, District - Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Shri Govind Dewangan, Advocate
For Respondent/State	:	Ms. Sunita Jain, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/11/2018**

The challenge in the writ petition is to the order Annexure P-1 dated 12.09.2016 whereby the claim of the petitioner has been rejected on the ground that two of the persons in the family of the petitioner are already in Govt. employment.

2. The brief facts which led to the filing of the writ petition are that father of the petitioner late Bhuvaneshwar Giri was working as an Assistant Sub

Inspector in the Police Department in the State of Chhattisgarh. He died in harness on 08.09.2010 leaving behind his widow as well as three children. The son of the deceased employee had initially moved an application for grant of compassionate appointment which was not decided by the respondents and which was neither agitated by the son of the deceased employee at any point of time. Subsequently, the petitioner moved an application on 12.10.2011 with affidavit granting NOC of the brother of the petitioner who had initially moved an application for compassionate appointment. The said claim of the petitioner was first rejected on 29.03.2012 on the ground that the petitioner is a married daughter. Subsequently, the petitioner moved a fresh application on 10.12.2012 and this time she had improved her claim showing herself as a divorcee and therefore claimed the compassionate appointment. It is this application which has been rejected by the respondents vide impugned order dated 12.09.2016.

3. The contention of the counsel for the petitioner is that the respondents could not have rejected the claim of the petitioner on the ground that two of her family members are already in government employment. Moreover, the ground of rejection raised by the respondents is not the same ground on which her earlier claim application was rejected and therefore, there is inconsistency on the part of the respondents while deciding the claim for compassionate appointment.

4. Having gone through the contents of the writ petition what admittedly appears is that the father of the petitioner had died in harness on 08.09.2010. On the date of death of the deceased employee the petitioner was a married lady living with her husband. The divorce of the petitioner

took place only on 30.10.2012 i.e. after about more than 2 years from the date of death of the deceased employee. Thus, it is evident that the petitioner was not dependent upon the deceased employee on the date of death of the deceased employee. Moreover, from the pleading it also appears that the petitioner's brother i.e. the son of the deceased employee at the first instance had moved an application for compassionate appointment. He had subsequently withdrawn his claim perhaps he might have got employment elsewhere. This further establish the fact that the petitioner's brother had obtained employment subsequent to the death of the employee or else he would have himself moved the application for compassionate appointment. This further would establish the fact that by virtue of the son of the deceased employee getting employment, the financial stringency faced by the family gets overcome and they would not be further facing financial crisis so as to avail the benefit of compassionate appointment. Moreover, the policy itself specifically holds that the benefit of compassionate would not be extended to those persons where in the family of the deceased, there are other Govt. employees available.

5. The very object of granting compassionate appointment is to tide over the immediate crisis faced by the family of the deceased employee. The law in this regard which by now is well settled in a catena of decisions of the Hon'ble Supreme Court whereby it has been held that compassionate appointment has to be considered by the employer immediately after the death of the deceased employee and the claim for compassionate appointment has to be promptly raised by the claimant and it cannot be raised at a belated stage. The purpose of providing appointments on compassionate ground is to mitigate the hardship due to death of the bread-

earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress. Care has, however, to be taken that provision for ground of compassionate employment which is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependent of the deceased employee. As it is in the nature of exception to the general provisions, it cannot substitute the provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision. Compassionate ground is not a method of recruitment but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment.

6. 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.”

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.”

7. Given the aforesaid legal position as it stands this Court does not find any strong case made out by the petitioner to interfere with the impugned order.

8. Moreover another aspect which cannot be brushed aside is that the order of rejection in the instant case is that of 12.09.2016 and the present writ petition is being filed after more than 2 years from the date of rejection which further would show that the petitioner does not face any such situation which calls for an interference or a direction to the respondents for reconsidering the claim of the petitioner.

9. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE