

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 7581 of 2018**

Sumeet Verma S/o Late Harish Chandra Verma, Aged About 28 Years, R/o Purani Basti, Mahamai Para, Patel Gali, Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur District Raipur, Chhattisgarh
2. Divisional Joint Director, Agriculture And Biotechnology, Raipur Chhattisgarh
3. Sub Divisional Agricultural Officer, Sub - Division, Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Jitendra Pali, Advocate
For Respondent/State	:	Ms. Sunita Jain, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19/11/2018**

The present writ petition has been filed assailing the order Annexure P-1 dated 30.08.2018 whereby the claim for compassionate appointment of the petitioner has been rejected. The rejection of the claim for compassionate appointment is on the ground that one of the family members of the petitioner is already in government employment.

2. During the course of argument it is revealed that it is the mother of the petitioner i.e. wife of the deceased employee who is in government

employment on account of which the claim of the petitioner has been rejected.

3. The contention of the petitioner is that the policy for denial of compassionate appointment to the legal heirs of the deceased employee in case there are other members in the family in government employment was passed in the year 2016 whereas in the instant case the death of the employee i.e. father of the petitioner was on 04.04.2014 when such condition was not in existence. Therefore, the impugned order Annexure P-1 is bad in law and deserves to be set aside. He further submits that the policy of 2016 could not have been given a retrospective effect whereas the legal position as it stands is that the petitioner should have been considered for compassionate appointment in accordance to the scheme that was existing on the date of death of the employee.

4. Having heard the contention put forth by the counsel for the petitioner and on perusal of the record what undisputedly reflects is that the father of the petitioner died in harness on 04.04.2014. The mother of the petitioner i.e. the widow of the deceased employee was in government employment. The claim of the petitioner was rejected on the ground that one of the family members was already in government employment. The legal position as it stands is that the compassionate appointment is to be provided to meet the immediate crisis that the family of the deceased employee would face.

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 in the main provision. Compassionate ground is not another mode 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. The employer while considering the claim of a particular person for compassionate appointment has to take into consideration the entire facts and circumstances of the case particularly the fact whether non-granting of compassionate appointment would put the family members of the deceased employee to a stage of penury or a financial stringency for their survival. Merely because the policy does not reflect denial of compassionate appointment in case of some family members being in Govt. employment by itself would not give a right to the petitioner for grant of compassionate appointment.

8. The claim of the petitioner has been duly considered and the Department found that the petitioner has sufficient means to sustain and which has not been rebutted or disputed by the petitioner.

9. Given the said facts, this Court does not find any illegality on the part of the respondents in denying compassionate appointment to the petitioner. Even if the policy of 2016 for a moment for argument sake is ignored, even then the petitioner would not have a right for compassionate appointment in the given fact that his mother is in government employment.

10. The writ petition fails and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**