

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 429 of 2006

Kamal Kishor Patel S/o. Late Mehattar Prasad Patel, Age 22 years, R/o.
Village-Kanumura, Tehsil- Kharsia, District- Raigarh(Chhattisgarh)

--- Petitioner

Versus

1. Collector (Tribal Development), Raigarh(C.G.).
2. Assistant Commissioner (Tribal Development) Collector Officer-Raigarh.
3. State of Chhattisgarh, Trough : Secretary, Education Department,
D.K.S. Bhawan, Raipur (C.G.).

---- Respondents

For Petitioner	:	Mr. R. B. Singh on behalf of Shri Awadh Tripathi, Advocate
For State	:	Mr. Salim Kazi, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/01/2019

1. The issue involved in the present writ petition is the non consideration of the petitioner for employment under compassionate appointment scheme.
2. The facts of the case are that the father of the petitioner late Mehattar Prasad Patel was working as an Assistant Teacher at village Bendojharia. He died in harness on 23.01.1989. It is said that the petitioner was a minor at the relevant point of time and he moved an application for compassionate appointment after his attaining the age of majority. It is said by the petitioner that initially his mother had applied for compassionate appointment but since she did not have the requisite qualification, she was not considered for the post of Assistant Teacher.

Later on, the mother of the petitioner is said to have moved an application for giving employment to the petitioner in her place which also till date has not been considered by the respondents.

3. State counsel opposing the petition submits that it is a case where the claim of the petitioner is not sustainable for the reason that as per the order of the High Court itself the claim for compassionate appointment was open only for the candidates where the deceased employee had died 3 years prior to the creation of the State of Chhattisgarh i.e. the State of Chhattisgarh would consider the case of only those candidates where the death of the deceased employee took place on or after 01.11.1997 onwards. In the instant case, the death of the employee took place in the year 1989 and therefore, the State counsel expresses their difficulty for considering the case of the petitioner for compassionate appointment at this juncture.
4. Having heard the contentions put forth on either side and on perusal of records particularly the documents enclosed along with the writ petition what clearly reflects is that there is no proof of the mother of the petitioner at any point of time having claimed for compassionate appointment neither is there any correspondence which has been made by the mother of the petitioner with the Department for granting the benefit to the petitioner or the mother of the petitioner herself having at the first instance claimed for compassionate appointment. The fact which cannot be lost sight is that the death of the deceased took place in January, 1989. Today we are in January, 2019 as such it is almost about more than 30 years that has lapsed from the date of death of the deceased employee.

5. It would be relevant at this juncture to refer to a recent decision of the Hon'ble Supreme Court in the case of Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh reported in (2012) 13 SCC 412 where in paragraph-8 the Supreme Court 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.”

6. The scheme for compassionate appointment is framed normally for meeting the immediate financial crisis which the family of the deceased employee faces on the death of the bread earner in the family. Another factor which is revealed from the documents enclosed with the petitioner is that other than the petitioner, there were other major members also available in the family who could have taken employment on the death

of the deceased employee. No justifiable reason is revealed from the documents enclosed with the petition with which it could be established as to why the other major family members did not avail the claim for compassionate appointment. Moreover, from the date of death till the date of creation of the State of CG there has been about 11 years time that had lapsed and during the said period also there does not seem to be any attempt made by the petitioner for claiming compassionate appointment. The present writ petition for the first time was filed in January, 2006 i.e. after about 17 years from the date of death of the deceased employee which apparently is a much belated stage for seeking compassionate appointment. The very fact that the family of the petitioner could sustain themselves in spite of the death of his father taking place in January, 1989 is a sufficient indication of the petitioner having sufficient means in the family for sustenance.

7. In view of the same, this Court does not find any substantive strong merit in the claim of the petitioner for grant of compassionate appointment. The writ petition therefore being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge