

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5734 of 2016**

- Smt. Kiran Patkar (Namdeo) D/o Late Shri Basant Kumar Namdeo, Aged About 44 Years W/o Ashok Patkar, R/o Near Durga Mandir, Durga Chowk, Katiyapara, Juna Bilaspur, Tahsil And Distt. Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. Director, Public Instruction Directorate Chhattisgarh, Raipur, District Raipur, Chhattisgarh
3. The Collector, Janjgir, District Janjgir Champa, Chhattisgarh
4. District Education Officer, Janjgir, District Janjgir Champa, Chhattisgarh
5. Chief Executive Officer, Zila Panchayat, Janjgir, District Janjgir Champa, Chhattisgarh
6. Chief Executive Officer, Janpad Panchayat, Janjgir, District Janjgir Champa, Chhattisgarh

---- Respondents

For Petitioner : Shri R.S. Patel, Advocate

For Respondents/State : Shri Avinash Singh, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****22/10/2019**

1. Heard.
2. Challenge in this petition is to the order dated 09.02.2016, whereby the application filed by the petitioner for compassionate appointment was rejected.
3. It is contended that the father of the petitioner Basant Kumar Namdeo, who was

working in the School Education Department, Janjgir District Janjgir Champa and was posted as Accountant in the Government Higher Secondary School, Sasaha, District Janjgir Champa, died in harness on 06.07.2003, leaving behind two daughters and one wife namely Satrupa Namdeo. Since the wife was aged and was a widow, she was not considered for compassionate appointment, as such an application was filed that her younger daughter namely Smt. Kiran Namdeo that she may be appointed on the compassionate ground. The said application was dismissed vide order dated 09.02.2016 (Annexure P-1) on the ground that as per the circular of the State dated 10th June, 2003, the married daughters are not entitled to get appointment on the compassionate ground. Therefore, the application was dismissed.

4. Learned counsel for the petitioner would submit that the daughter can be given appointment on the compassionate ground is no more res integra and the issue has been decided by this Court in the case of ***Smt. Sarojni Bhoi Versus State of Chhattisgarh & others {WPS No.296 of 2014, decided on 30.11.2015}***, wherein it has been held that the policy of the State to exclude the married daughter to be appointed on the compassionate ground has been set aside it being against public welfare State. It is contended that therefore, the application of the petitioner should be reconsidered in the light of the changed circumstances.
5. Learned State counsel is not in a position to dispute the law laid down in WPS No.296 of 2014 dated 30.11.2015.
6. This Court in WPS No.296 of 2014 has passed the following order:-

28. Thus, from the aforesaid analysis, it emanates that institution of marriage is an important and basic civil right of man and woman and marriage by itself is not a disqualification

and impugned policy of the State Government barring and prohibiting the consideration of the married daughter from seeking compassionate appointment merely on the ground of marriage is plainly arbitrary and violative of constitutional guarantee envisaged in Article 14, 15 and 16(2) of the Constitution of India being unconstitutional.

7. Applying the aforesaid principles since the father of the petitioner died on 06.07.2003, the petitioner being the married daughter filed an application for compassionate appointment on 09.07.2004, which was eventually dismissed on 09.02.2016 on the ground that the married daughter cannot claim for compassionate appointment. The ratio of principle/issue having been set at rest by the authoritative pronouncement by this Court, the reasons as stated in the Annexure P-1 cannot be allowed to sustain. In a consequence, the order dated 09.02.2016 (Annexure P-1) whereby the application of the petitioner was rejected on the ground that the married daughter cannot get appointment on the compassionate ground is set aside. It is directed that respondents No.2 & 4 shall take afresh decision on the application for compassionate appointment of the petitioner by reconsideration of the facts afresh keeping in view the fact that the father has died on 06.07.2003 and subsequent to it immediately the application for compassionate appointment was made on 09.07.2004, which eventually was declined by the State Government on 09.02.2016 and subsequently this Court has passed the judgment whereby the order dated 09.02.2016 is being set aside. The said application of the petitioner shall be decided afresh within a further period of 4 months from the date of receipt of copy of this order.
8. Accordingly, the writ petition stands allowed to the extent indicated above.

Sd/-
Goutam Bhaduri
Judge