

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 130 of 2019**

- Chief Executive Officer Zila Panchayat District Rajnandgaon, Chhattisgarh.

---- Petitioner**Versus**

1. Smt. Raimun Bai Chandrawanshi W/o Late Mahesh Kumar Chandrawanshi Aged About 31 Years R/o Village Jhandatlab Janpad Panchayat, Dongargarh, District Rajnandgaon, Chhattisgarh.
2. State Of Chhattisgarh Through Its Secretary Ministry Of Panchayat And Rural Development Department, D K S. Bhawan, Mantralaya Raipur, District Raipur, Chhattisgarh.
3. Collector District Rajnandgaon, Rajnandgaon, Chhattisgarh.
4. Deputy Director Panchayat And Social Welfare Rajnandgaon, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Dhiraj Kumar Wankhede, Advocate
For Respondent No.1	:	Shri Parag Kotecha, Advocate
For State / Respondents No.2 to 3:	:	Shri Faiz Kazi, Panel Lawyer

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per, Ajay Kumar Tripathi, Chief Justice****05.03.2019**

1. Heard counsel for the parties.
2. The Appellant is aggrieved by the order dated 23.07.2018 because the learned Single Judge allowed the writ application of the widow of the former employee of the Panchayat and gave a direction for consideration for appointment on compassionate ground and set aside the order of rejection dated 23.10.2010 which was Annexure P/5 to the writ application.
3. Husband of the private Respondent was working as a Panchayat Karmi in Janpad Panchayat, Dongargarh, District Rajnandgaon. His appointment was made in the year 1994-95. He died in harness on 08.03.2009. The employee left behind the widow and four young children to take care.

4. Application was filed for compassionate appointment, the same was processed and rejected vide order dated 23.10.2010. The order of rejection not only carried the name of the private Respondent, but seven other employees. The order of rejection was passed on only one ground i.e. that the claimants including the private Respondent did not have the minimum educational qualification of higher secondary. This order became the subject matter of challenge in the writ application, which came to be allowed.
5. The submissions made on behalf of the present Appellant before the learned Single Judge in support of their decision contained in Annexure P/5 to the writ application has been analysed by the learned Single Judge and answered as follows :

“7. It would be relevant at this juncture to take note of the fact that the scheme for compassionate appointment applicable for government employees clause 10 very specifically holds that for grant of employment to a widow of a deceased employee in a class-IV category post, the minimum educational qualification part could be relaxed. In the instant case the petitioner admittedly is 8th standard pass and therefore she otherwise fulfills the educational qualification required for a class-IV category post.

8. Another aspect which cannot be brushed aside is the fact that the basic object for framing of a policy for compassionate appointment is to meet the immediate financial crises, which the family faces on the sudden death of the bread earner in the family. In the instant case, the deceased employee died very young and he had left behind the petitioner his widow and 4 young children. The object of compassionate appointment also is to tied away the financial crunch or the stage of penury which the family may face in the light of the sole earning member of the family meeting with an untimely death.

9. Keeping this object in mind, if we consider the case of the petitioner and also keeping in view the policy of the State Government so far as government employment is concerned, this Court does not find any strong reason why the respondents should not have considered the case of the petitioner for grant of employment on the class-IV category where the educational qualification of class-8th is sufficient.

10. Given the said facts and circumstances of the case, the present writ petition stands disposed off at this juncture with a direction that without being in any manner influenced by the observations made in Annexure P/5 dated 23.10.2010, the respondents shall consider the claim of the petitioner for grant of compassionate appointment afresh on a class-IV post.

11. Considering the fact that the death of the deceased employee took place about 10 years back, it is expected that the respondents shall process the claim of the petitioner and decide the same within a period of 90 days from the date of receipt of certified copy of this order.”

6. Before us, learned counsel for the Appellant further submits that there was yet another reason why the claim of the private Respondent was not entertainable and was fit to be rejected. Submission is that husband of the private Respondent was not a permanent employee.
7. We have difficulty in entertaining a new plea for the simple reason that the Appellant had all the opportunity to provide the reasons in the order of rejection. Once having taken a decision and clearly stating the reason for such rejection, which became a matter of judicial review, we are not going to allow the Appellant to discover a new reason on which such claim can be rejected or should be rejected. A decision taken within the public domain with specific reason assigned therein cannot be allowed to be improved, supplemented or supplanted. The order must stand the test of judicial review on its own legs.
8. Since the sole reason provided in the order dated 23.10.2010 passed by the Appellant authorities for rejecting the prayer for compassionate appointment was lack of educational qualification which have been aptly answered by the learned Single Judge in the paragraphs noted above, we fail to appreciate the arguments made on behalf of the Appellant that additional reason should

also be considered for rejection of the case of compassionate appointment of the private Respondent.

9. Appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge