

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 1906 of 2019

Ku. Tapswinee Diwan D/o Late Ranjeet Singh Diwan, Aged About 38 Years, R/o Village- Hardasarar, Post- Baloda, Tahsil- Saraipali, District- Mahasamund, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, District- Raipur, Chhattisgarh
2. District Education Officer, Mahasamund, District- Mahasamund, Chhattisgarh
3. Block Education Officer, Block- Saraipali, District- Mahasamund, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. A. K. Patil and Mr. Raghvendra Pradhan, Advocates
For State	:	Mr. Ishan Verma, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/03/2019

1. The claim of the petitioner in the present writ petition is for grant of compassionate appointment.
2. The petitioner is the daughter of late Ranjeet Singh Diwan (hereinafter referred as "the deceased employee"). The deceased employee who working as an Assistant Teacher in School Education Department died in harness on 28.10.1994.

3. The contention of the counsel for the petitioner is that at the time of death of the deceased employee, the petitioner was a minor aged around 4 years and therefore the claim of the petitioner was to be kept alive till she attained the age of majority and the respondents thereafter should have considered her claim for compassionate appointment. According to the petitioner, though she had approached the authorities concerned but till date no decision has been taken on her claim. Thus, prayed for a suitable direction.
4. At the outset, this Court finds that the claim of the petitioner to be quite stale and having been raised at an inordinate, unexplained and belated stage. We are in March, 2019, as such it is more than 24 years from the date of death of the employee and about 11 years from the date the petitioner attained the age of majority. Both these periods would be too long a period for entertaining a claim application for compassionate appointment. It has been repeatedly settled by the Hon'ble Supreme Court that the claim for compassionate is meant to tide over the immediate crisis that the family faces on the death of the bread earner or the earning member in the family. Compassionate appointment cannot be considered as an another source of recruitment nor can it be converted into another mode of recruitment. The claim for compassionate appointment always has to be made promptly on the death of the deceased employee by any of the members of the family 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. Though counsel for the petitioner relied upon a couple of decisions of this Court as also the Supreme Court, one of which is (2018) 4 SLR 771 (SC) in the case of Supriya Suresh Patil @ Sow Supriya Pratik Kadam Vs. State of Maharashtra and Others, but down the line this Court finds that there is a recent decision rendered by the Hon'ble Supreme Court on 1st of March, 2019 in the case of **the Government of India & Another Vs. P. Venkatesh** in Civil Appeal No. 2425 of 2019 (SLP © No. 5810 of 2017) wherein a similar issue came up for consideration

and the Supreme Court came down heavily upon the High Court which had entertained the writ petition at a belated stage and had allowed the application for compassionate appointment.

7. Keeping in view the principles laid down by the Hon'ble Supreme Court in the case of P. Venkatesh (supra), this Court finds it difficult to entertain the present writ petition on the ground of delay and laches. The Writ Petition thus deserves to be and is accordingly dismissed.

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

Khatai