

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO.4200 OF 2019

Avinash Sonkar @ Avinash Mali S/o Late Vijay Kumar Mali Aged About 26 Years R/o Nayapara, Bemetara, District Bemetara, Chhattisgarh, Presently Residing At Sardar Patel Ward, In Front Of Post Office Mungeli, Police Station Mungeli, District Mungeli Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Revenue and Disaster Management, Mahanadi Bhawan, Mantralaya, Atal Nagar, Police Station Rakhi, District Raipur Chhattisgarh.
2. The Collector Bemetara, District Bemetara Chhattisgarh.
3. The Tahsildar Nawagarh, District Bemetara Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Vivek Kumar Agrawal, Advocate.
For Respondent-State	:	Ms. Shriya Mishra, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18.06.2019

1. The claim of the petitioner in the present writ petition is for an appropriate direction to the respondents to consider his claim for compassionate appointment.
2. The facts which led to filing of the writ petition is that, the father of the petitioner was working under the respondents as an Assistant Grade-III. He was terminated from service vide order dated 30.04.2002. The order of termination was challenged before the High Court vide WPS No.2668 of 2008. Pending the writ petition before this court, the father of the petitioner died on 13.01.2013 and the legal heirs including the petitioner was brought on record. The writ petition was pursued by the legal heirs and finally an order was passed on 18.07.2017 setting aside the order of termination, granting benefit of back wages of 50

percent from the date of termination till the order of reinstatement or till the date of death.

3. Subsequent to the order of termination being set aside, the petitioner moved an application for compassionate appointment before the authorities and since no decision has been taken by the authorities, the present writ petition has been filed.
4. This court is of the opinion that the claim of the petitioner for compassionate appointment is highly belated. Moreover, what also has to be seen is that from 2002 onwards the father of the petitioner was not in employment and the order of termination was finally set aside only in the year, 2017 i.e. after about 15 years from the date of termination. The father of the petitioner meanwhile have also died in January, 2013. The claim for compassionate appointment was also not claimed for by the petitioner as a legal heir of the deceased employee while WPS No.2668 of 2008 was being decided. The claim for compassionate appointment therefore is one which has been raised at a highly belated stage and which cannot be considered at this juncture.
5. It is settled position of law that the claim for compassionate appointment has to be made immediately on the death of the deceased employee and the object for providing compassionate appointment is to tide away the immediate crisis which the family would face on the death of the earning member. The object also is to ensure that the family members of the deceased employee do not face a situation of penury. In the instant case, the legal heirs of the deceased had been pursuing WPS No.2668 of 2008 immediately on

the death of the deceased. They never claimed for compassionate appointment when the writ petition was being decided. It is now after the petitioner have received the benefits from setting aside fo the termination order, he has claimed for a fresh relief of compassionate appointment.

6. The Supreme Court has time and again repeatedly held that the compassionate appointment is not be treated as another source of appointment or recruitment, but is only one which is intended to meet the immediate crisis that the family members of the deceased employee faces. Such is not a situation so far as claim of the petitioner is concerned.
7. Given the aforesaid facts and circumstances of the case, this court is of the opinion that no strong case is made out by the petitioner calling for an interference or a direction to be issued to the State Government.
8. The writ petition accordingly being devoid of merit deserves to be and is dismissed.

Sd/-
(P. Sam Koshy)
Judge