

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4364 of 2019**

Shashank Jha S/o Shri Vijay Jha Aged About 30 Years R/o Sahdeo Nagar
Ward No. 22, Rajnandgaon District Rajnandgaon Chhattisgarh., District :
Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Home Department Mantralaya,
Mahanadi Bhawan, Atal Nagar, New Raipur Chhattisgarh., District : Raipur,
Chhattisgarh
2. Inspector General Of Police Raipur, Zone Raipur, District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh
3. Superintendent Of Police Rajnandgaon, District Rajnandgaon
Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Aman Upadhyay, Advocate
For State	:	Mr. Saleem Kazi, Dy. AG

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/06/2019**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 28.02.2015. By the said impugned order the claim of the petitioner for compassionate appointment has been rejected.
2. It is the case where father of the petitioner was working as Constable in the Police Department and went missing from 2003. Subsequently a Civil suit was filed before the Civil Judge Class – II, Dongargarh where an order was passed declaring the father of the petitioner as dead w.e.f. 25.07.2013. Subsequently a death certificate in this regard was also issued on 30.09.2014. The petitioner herein applied for compassionate appointment on 28.02.2015 and the impugned

order has been passed rejecting the application on the ground that brother of the petitioner was already in government employment and was working in the Police Department itself and brother and the petitioner were staying together at the same house.

3. Contention of the petitioner is that rejection of the candidature of the petitioner was on the basis of policy decision dated 06.06.2014 and according to the petitioner since the date of death was prior to the policy decision coming into force. It should have been the policy that was prevailing on the date of death which should have been applied and the petitioner's claim could not have been rejected on this ground. The petitioner also relied upon the order passed by the Coordinate Bench of this Court in WPS No. 4383/2016 decided on 06.10.2017 in this regard.
4. Having gone through the contentions put forth on either side and on perusal of record what clearly reflects is that the admittedly the father of the petitioner was declared to be dead w.e.f. 25.07.2013. Petitioner has applied for compassionate appointment only on 28.02.2015. Meanwhile, policy for compassionate appointment had been amended by the State Government on 06.06.2014 and it was by way of three amendments that it was held that all those claims for compassionate appointment would be rejected, where any family member is already in government employment.
5. Since on the date when the petitioner had applied i.e. on 28.02.2015 policy for compassionate appointment had already been amended and State Government was duty bound to have decided the application on the basis of policy that was prevailing on the date petitioner had applied. It would have been a different case had the

petitioner applied immediately after 25.07.2013 before the policy of compassionate appointment was amended on 06.06.2014. Then, perhaps contention of the petitioner would have had more strength.

6. In the instant case, there is another lacuna which is Writ Large i.e. the impugned order (Annexure P-1) has been passed on 28.02.2015. Present writ petition has been filed after more than four years from the date of rejection of the claim of the petitioner. Thus, the present writ petition also suffers from delay and laches. On these counts, this Court does not find any strong case made out by the petitioner and the same is accordingly deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit