

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6080 of 2016

Jhadhram Sahu S/o Late Shri Manthir Sahu, Aged About 32 Years
R/o Village Singhola, Tehsil And Distirct Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Public Works
Department, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh,
2. Executive Engineer, Public Works Department, Rajnandgoan
Division, District Rajnandgaon Chhattisgarh

---Respondents

For petitioner – Shri Anup Majumdar, Advocate.
For State-Smt. Richa Shukla, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

19/11/2019

1. The petitioner sought compassionate appointment in place of his father who died in harness while working as a gangman in the Public Works Department, Division of Rajnandgaon. It is contended that father of the petitioner had completed more than 15 years of service in the department and thus he is employee of work-charged and contingency establishment, therefore the dependants would be entitled for appointment on a compassionate ground. It is contended that the petitioner's father was appointed on 1/04/1982 and he died in harness on 29/08/2003 while working as permanent gangman. It is further submitted that the issue to provide compassionate appointment to the dependents has been settled at rest by the authoritative judgement of this court in W.P.S. No.7316 of 2010 and therefore the petitioner is entitled for consideration for appointment on the compassionate ground within a stipulated time as the application for appointment on compassionate ground is pending since 2005.

2. Learned State counsel is not able to dispute the fact the judgement rendered in W.P.S. No.7316 of 2010.

3. Judgement passed in W.P.S. No.7316 of 2010 which would be of relevance is reproduced hereunder:-

“2. According to the counsel for the petitioner, the dispute in the present writ petition has already been decided in a series of Writ Petitions, couple of which are W.P.(S) 6148 of 2009 decided on 28.01.2010 in the case of Tuleshwar Sinha v. State of Chhattisgarh & Others and W.P.(S) 4480 of 2006 decided on 19.06.2009 in the case of Smt. Puna Bai Vs. State of Chhattisgarh and Others. According to the counsel for the petitioner, this Court in the case of Govind & Others v. State of C.G. & Others reported in 2007 (2) C.G.L.J. 29 has decided the issue of definition of permanent Gangman under the rules governing workcharged and contingency paid employees.

3. According to the counsel for the petitioner, since in the case of Govind and Others (Supra) this Court has already treated all the permanent Gangmen under the work-charged and contingency paid employees to be regular employees under the Madhya Pradesh/Chhattisgarh Workcharged and Contingency Paid Employees Revision of Pay Rules, applying the same principle the deceased employee i.e. father of the petitioner has to be treated as regular employee of the workcharged establishment and therefore the circular for compassionate appointment shall become applicable so far as the case of the petitioner is concerned. Counsel for the petitioner submits that the case of Smt. Puna Bai in W.P.(S) 4480/2006 was also put to challenge in a writ appeal i.e. Writ Appeal No. 105 of 2012 which was finally dismissed by the Division Bench of this Court and thus, the order passed in W.P.(S) 4480/2006 dated 19.06.2009 has attained finality. Even more recently the Co-ordinate Bench of this Court, in W.P.(S) 180/2008 decided on 09.09.2009 in the case of Taman Lal Vs. State of C.G. & another and W.P.(S) 26/2010 decided on 07.01.2010 in the case of Narayan Lodhi Vs. State of C.G. & others, applying the decisions of Smt. Puna Bai (Supra) and the other decisions had disposed of the Petitions with a direction to the State Authorities to consider the case of the petitioners therein and pass a speaking order in accordance with the Policy.

4. The State counsel submits that so far as the law laid down by this Court in the orders referred to by the counsel for the petitioner is concerned, the same is not disputed. However, according to him,

the case of the petitioner would have to be considered in the light of the entries that are available in the service record of the father of the petitioner. The State counsel does not have any objection in case the present writ petition is disposed of in terms of the orders referred to by the counsel for the petitioner.

5. In the light of the submissions made by the counsel appearing for the parties, considering the orders cited by the counsel for the petitioner and also taking note of the decision rendered by this Court in the case of Govnd & Others (Supra), this Court is of the opinion that ends of justice would meet if the present writ petition is also disposed of in similar terms with a direction to the respondents to consider the case of the petitioner for grant of compassionate appointment subject to the verification of the factual aspects of the case so far as the eligibility and entitlement of the petitioner are concerned. It is ordered accordingly.

6. It is expected that the respondents shall consider the case of the petitioner at the earliest preferably within a period of six months from today.”

4. Considering this fact, the similar issue also involved in this case the case of the petitioner also requires to be considered in the light of the principle laid down supra.

5. It is ordered accordingly. The guideline and the ratio laid down as has been reproduced herein above shall also be squarely applicable to the facts of this case. Accordingly, it is directed that the respondents shall consider the case of the petitioner at the earliest preferably within a period of four months from today.

6. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE