

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5244 of 2019

1. Dinesh Kumar Sahu S/o Late Johan Lal Sahu Aged About 36 Years R/o Village - Kirvai, Police Station - Rajim, District - Gariyaband Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through the Secretary, Water Resource Department, Atal Nagar New Raipur, District - Raipur Chhattisgarh.
2. The Chief Engineer, Mahanadi Godawri Kachhar, Water Resources Department, Raipur Chhattisgarh.
3. The Executive Engineer, Water Resource Division Gariyaband, District - Gariyaband Chhattisgarh.

---Respondents

For Petitioner	:	Shri Kapil Maini, Advocate.
For State	:	Shri Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/07/2019

1. Challenge in this petition is to the order Annexure P/1 dated 08.03.2019 whereby the claim of the petitioner for compassionate appointment has been rejected.
2. The present is a second round of litigation. In the first round the petitioner had approached this court vide WPS No.8484 of 2018 which got disposed of on 04.01.2019 directing the respondents to decide the claim of the petitioner within a reasonable period. The respondents thereafter have scrutinized the case of the petitioner and have passed the impugned order under challenge in this petition.
3. During the course of hearing it has been candidly accepted by the petitioner that the father of the petitioner late Johan Lal Sahu was working as daily wage employee with the respondents and he died also as daily wage employee.
4. The contention of the petitioner is that the death of the father of the petitioner was on 06.03.2008 and the State Govt. had issued a circular on

05.03.2008 for regularizing all those persons who were appointed prior to 31.12.1997. According to the petitioner, the father of the petitioner was entitled to be regularized as per circular dated 05.03.2008 and therefore the claim of the petitioner could not have been rejected by the respondents.

5. Having heard the submissions of counsel for the petitioner, what is clearly reflected is that the father of the petitioner was working under the respondents as daily wage employee. He also died working as daily wage employee and as such his status was that of a daily wager. Unless and until there is an order of regularization passed in favour of the father of the petitioner, his status could not have been changed.
6. The policy for compassionate appointment of the State Govt. specifically excludes compassionate appointment in cases where the deceased is a daily wage employee. Unless there is a policy for compassionate appointment for the particular category, this court cannot pass an order for granting compassionate appointment, contrary to the policy of the State Govt. It is the settled position of law that the claim for compassionate appointment can be considered only in accordance with the scheme for compassionate appointment framed by the State Govt./employer. In the instant case admittedly the daily wage employee have been excluded from the ambit of compassionate appointment. Therefore, the claim of the petitioner has been rightly rejected by the respondents. This court does not find any strong case made out by the petitioner calling for an interference with the impugned order dated 08.03.2019.
7. The writ petition accordingly fails and is rejected.

Sd/-
(P. Sam Koshy)
Judge