

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 6083 OF 2019**

Chandrakala Singh, W/o Late Shri Rajkumar Singh, aged about 41 years, R/o Village Podi, Post Office Padiyain, Tehsil Pathariya, District Mungeli, Chhattisgarh, PIN Code – 495335.

... Petitioner

versus

1. State of Chhattisgarh, through Secretary, Department of Panchayat and Rural Development, Mahanadi Bhawan, Atal Nagar, District Raipur (CG)
2. State of Chhattisgarh, through Secretary, Department of School Education, Mahanadi Bhawan, Atal Nagar, Raipur (CG)
3. Collector, Mungeli, District Mungeli (CG)
4. Block Education Officer, Pathariya, District Mungeli (CG)
5. Chief Executive Officer, Jila Panchayat, Mungeli, District Mungeli (CG)
6. Chief Executive Officer, Janpad Panchayat, Pathariya, District Mungeli (CG)

... Respondents

For Petitioner	:	Mr. Dheeraj Wankhede, Advocate.
For Respondent-State	:	Mr. Ashutosh Mishra, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/08/2019

1. The present is a second round of litigation. Challenge in the present writ petition is to the order dated 15.2.2019 (Annexure P-1) passed by respondent no.5.
2. Vide the impugned order, the respondents have rejected the claim application of the petitioner for grant of compassionate appointment on the post of Assistant Teacher (Panchayat) on the ground that she does not have requisite qualification for the said post.
3. Facts of the case are that the husband of the petitioner was working as Teacher (Panchayat) under respondents no. 5 & 6. The husband of the petitioner died in harness on 28.12.2017. The petitioner is the wife of deceased-Late Rajkumar Singh and has two minor children solely dependent upon her after the death of her husband. The petitioner is facing acute financial crisis for sustaining herself and her children. The petitioner is graduate by qualification. The petitioner on an early occasion had filed a writ petition i.e. W.P.S. No. 7814/2018 and this Court disposed of the said writ petition directing the respondents no. 3 & 5 to take an appropriate decision on the claim application that the petitioner had moved for grant of compassionate appointment.

4. The impugned order has now been passed pursuant to the directives given by this Court in the aforesaid writ petition. The ground of rejection is only on the ground that the petitioner does not fulfill requisite educational qualification required for appointment to the post of Assistant Teacher (Panchayat).

5. Counsel for the petitioner at this juncture submits that the petitioner is also willing to accept even the Class-IV category employment under respondents no. 5 & 6 as she is in dire need of financial assistance for sustaining herself and her two minor children born from her deceased husband.

6. Having heard the contentions put forth by the petitioner what reflects is that, it appears that the respondents have not considered the claim of the petitioner from the angle as to whether she can be accommodated in any of the Class-IV category employment under respondents no. 5 & 6. The impugned order is totally silent in this regard.

7. The very purpose of compassionate appointment and the object behind enacting the scheme for compassionate appointment is to ensure that the family members of the deceased employee do not face a situation of penury and financial crisis on the death of the sole bread earner while in service. The policy of the State Government that the scheme for compassionate appointment can be granted only on the post of Assistant Teacher (Panchayat) would be too harsh a decision, for the reason that the need of the family members of the deceased employee is to obtain some employment commensurate to the qualification that they have so that the entire family can sustain. The respondent authorities ought to have asked the petitioner or have given an option to the petitioner of choosing another nature of employment commensurate to her qualification and which could also be an employment under Class-IV category under respondents no. 5 & 6. It appears that the respondents have not taken this into consideration while passing the impugned order.

8. In a similar situation, this Court in the case of *Smt. Raimun Bai Chandrawanshi v. State & Others*, WPS No. 1523/2011, decided on 23.7.2018, in paragraphs 5 to 10 has held as follows:

“5. The counsel appearing for the respective respondents however opposing the petition submits that at that relevant point of time there was no provision for grant of compassionate appointment in any other category except on the post of Panchayat Karmi and since the petitioner did not have minimum educational qualification of higher secondary pass for appointment on the post of Panchayat Karmi, she was not granted appointment and this was the reason for issuance of Annexure P/5.

6. The counsel for the respondents further submits that it is a case where the department itself had sought for approval/sanction from the State Government so far as granting appointment to the petitioner in the class-IV category, but for want of necessary sanction/approval, the case of the petitioner could not be considered.

7. It would be relevant at this juncture to take note of the fact that the scheme for compassionate appointment applicable for government employees clause 10 very specifically holds that for grant of employment to a widow of a deceased employee in a class-IV category post, the minimum educational qualification part could be relaxed. In the instant case the petitioner admittedly is 8th standard pass and therefore she otherwise fulfills the educational qualification required for a class-IV category post.

8. Another aspect which cannot be brushed aside is the fact that the basic object for framing of a policy for compassionate appointment is to meet the immediate financial crises, which the family faces on the sudden death of the bread earner in the family. In the instant case, the deceased employee died very young and he had left behind the petitioner his widow and 4 young children. The object of compassionate appointment also is to tied away the financial crunch or the stage of penury which the family may face in the light of the sole earning member of the family meeting with an untimely death.

9. Keeping this object in mind, if we consider the case of the petitioner and also keeping in view the policy of the State Government so far as government employment is concerned, this Court does not find any strong reason why the respondents should not have considered the case of the petitioner for grant of employment on the class-IV category where the educational qualification of class-8th is sufficient.

10. Given the said facts and circumstances of the case, the present writ petition stands disposed off at this juncture with a direction that without being in any manner influenced by the observations made in Annexure P/5 dated 23.10.2010, the respondents shall consider the claim of the petitioner for grant of compassionate appointment afresh on a class-IV post.”

9. The said judgment of this Court further stood affirmed by the judgment of a Division Bench of this High Court delivered in WA No. 130/2019 (CEO, Zila Panchayat, Rajnandgaon v. Smt. Raimun Bai Chandrawanshi & Others) decided on 5.8.2019.

10. Given the aforesaid facts and circumstances, this Court is of the firm view that the impugned order (Annexure P-1) needs reconsideration again. Accordingly, the impugned order stands set aside/quashed and the same is remitted back to respondent no.5 to pass a fresh order keeping in view the

aforesaid observations made by this Court. Let a decision be taken by respondent no.5 at the earliest preferably within a period of three months from the date of receipt of copy of this order.

11. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

/sharad/