

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7596 of 2019

Abhishek Shawal S/o Late Ashok Shawal Aged About 36 Years Resided At Adarsh Nagar, Ward No. 20, B.M.Y. Charoda, District- Durg, Chhattisgarh

---- Petitioner

Versus

1. The State Of Chattisgarh Through The Secretary, School Education Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh.
2. Director State Council Of Educational Research And Training, Mantralaya, Indravati Bhavan, Naya Raipur, Chhattisgarh.
3. District Collector District Office, Durg, District- Durg, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Rohitashva Singh, Advocate
For State	:	Ms. Abhyunnati Singh, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/09/2019

1. The claim of the petitioner in the present writ petition is for a direction to the respondents to consider his claim for grant of compassionate appointment.
2. Perusal of the records would show that there is already a correspondence made by the District Education Officer to the Collector, District Durg saying that the petitioner would not be entitled for compassionate appointment now as this claim has been raised at a belated stage.
3. This Court also finds that this petition suffer from delay and laches. The date of death of deceased employee in the instant case is 19.07.2001 and the petitioner seems to have recently moved an application for seeking compassionate appointment. Nineteen years of time is a very long period for claiming compassionate appointment. It is settled position of law that seeking for compassionate appointment should not be construed as an another mode of employment. The claim for compassionate appointment ought to have been made within a reasonable period if not immediately on the date of death of the deceased employee.

4. The purpose and object of providing compassionate appointment is to ensure that the family is not put to a stage of penury or face financial crises on the death of sole bread earner of the family. The age of the petitioner shows that the petitioner was almost a major person at the time of death of the deceased employee. If the petitioner does not put forth his claim immediately or atleast within a reasonable period, the claim can not be and should not be entertained at a belated stage which in the instant case is more than 19 years.
5. The law so far as the compassionate appointment and entertaining the petition at a belated stage is concerned has been well settled by now.
6. It would be relevant at this juncture to refer to a recent decision of the Hon'ble Supreme Court in the case of Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh reported in (2012) 13 SCC 412 where in paragraph-8 the Supreme Court has held as under:

“18. The very object of making provision for appointment on compassionate grounds, is to provide succour to a family dependent on a government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole breadwinner. Delay in seeking such a claim is an antithesis for the purpose for which compassionate appointment was conceived. Delay in raising such a claim is contradictory to the object sought to be achieved.”

Further in Paragraph-19 also the Supreme Court in very categorical terms while restricting the scope of interference in a petition for compassionate appointment has held as under:

“19. The courts and tribunals should not fall prey to any sympathy syndrome, so as to issue directions for compassionate appointments, without reference to the prescribed norms. The courts are not supposed to carry Santa Claus's big bag on Christmas eve to disburse the gift of compassionate appointment to all those who seek a court's intervention. The courts and tribunals must understand that every such act of sympathy, compassion and discretion wherein directions are issued for appointment on compassionate grounds could deprive a really needy family requiring financial support, and thereby, push into penury a truly indigent, destitute

and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion.”

7. Though counsel for the petitioner relied upon a couple of decisions of this Court as also the Supreme Court, one of which is (2018) 4 SLR 771 (SC) in the case of Supriya Suresh Patil @ Sow Supriya Pratik Kadam Vs. State of Maharashtra and Others, but down the line this Court finds that there is a recent decision rendered by the Hon'ble Supreme Court on 1st of March, 2019 in the case of **the Government of India & Another Vs. P. Venkatesh** in Civil Appeal No. 2425 of 2019 (SLP © No. 5810 of 2017) wherein a similar issue came up for consideration and the Supreme Court came down heavily upon the High Court which had entertained the writ petition at a belated stage and had allowed the application for compassionate appointment.
8. Keeping in view the principles laid down by the Hon'ble Supreme Court in the case of P. Venkatesh (supra), this Court finds it difficult to entertain the present writ petition on the ground of delay and laches. The Writ Petition thus deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha