

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 752 of 2018**

Umendra Singh Thakur S/o Shri Balbhadra Singh Thakur Aged About 21 Years
R/o Narayan Sagar Road, Sakti District Janjgir Champa Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Urban Administration And Development Department, Mahanadi Bhawan, New Raipur Chhattisgarh.
2. Joint Director, Urban Administration And Development Department, Bilaspur Chhattisgarh.
3. Chief Municipal Officer, Nagar Palika Parishad, Sakti District Janjgir Champa Chhattisgarh.

---- Respondents

For Appellant : Shri Lalit Jangde, Advocate.

For Respondent/State : Shri Avinash K. Mishra, Penal Lawyer.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**03/01/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Appeal has been directed against the order dated 17.08.2018 passed by the learned Single Judge who dismissed the writ application refusing to give any direction for compassionate appointment primarily for the reason that way back on 30.07.2008, the claim for compassionate appointment made by the mother of the present Appellant stood rejected keeping in mind clause 12 sub-clause (4) of the Compassionate Appointment Scheme which created embargo for consideration of cases for compassionate appointments where an employee had attained age of 55 years or had rendered 25 years of service at the time of death.

3. No doubt, such a clause was subsequently repelled vide yet another notification dated 23.07.2003, however, the amended notification itself indicates that the claim for compassionate appointment can only be considered provided there are vacancies available within a year of the said death.

4. Initially, learned counsel for the Appellant tried to make out a case as if the claim of the mother was rejected because she was otherwise ineligible being illiterate and that the Appellant, when he attained majority, made an application which has been illegally rejected by the Respondents.

5. It is clearly recorded even in Annexure P/4, annexed with the writ application, that there are no vacancies available for compassionate appointees since the year 2006, therefore, it makes no difference whether the Appellant was minor or major when he made a claim for compassionate appointment.

6. Since a right for compassionate appointment is neither a constitutional nor a fundamental right of a citizen but is a creature of a policy and if the claimant does not fulfill the requirement of the policy, the same cannot be altered, modified or re-casted by a Court to suit a claimant for such appointment.

7. The appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE