

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Review Petition No. 135 of 2018**

1. State of Chhattisgarh, through the Secretary, Department of Home, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Director General of Police, Raipur, Civil and Revenue District Raipur, Chhattisgarh.
3. The Inspector General of Police, Range Surguja, Civil and Revenue District Surguja, Chhattisgarh.
4. The Superintendent of Police, Balrampur, Civil and Revenue District Balrampur, Chhattisgarh.
5. The Superintendent of Police, Jashpur, Civil and Revenue District Jashpur Chhattisgarh.

**---- Petitioners****Versus**

- Santosh Kumar Madhukar S/o Shri Prem Lal Madhukar, aged about 41 years, R/o Village Pachpedi, Police Station Pachpedi, Tahsil Masturi, Civil and Revenue District Bilaspur, Chhattisgarh.

**---- Respondents**


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| For Petitioners | : | Shri Jitendra Pali, Dy. Advocate General |
| For Respondent  | : | Shri Paras Mani Shriwas, Advocate        |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****24/01/2019**

1. The review petition has been filed seeking review of the order dated 21.08.2018 passed in WPS No. 4807 of 2018. The issue in the present case is in respect of grant of compassionate appointment.

2. The claim for compassionate appointment by the respondent was on the death of his brother who died in harness on 11.02.2014. The respondent had applied for the said post being a member of the reserved category.
3. Perusal of the record would show that initially there was an order of appointment issued in favour of the respondent herein by the Inspector General of Police on 21.12.2015. However, he was not permitted to assume his duties. The writ petition was filed on account of the inaction on the part of the State in not acting upon the order of appointment dated 21.12.2015. In spite of a couple of opportunities being granted to the State to file their return, they did not file the same and therefore the writ petition was disposed of at motion stage directing the authorities to pass an appropriate order so far as the claim of the respondent for grant of compassionate appointment is concerned preferably within a period of 60 days.
4. Now the State has filed the present review petition highlighting the fact that the order of appointment in favour of the respondent Santosh Kumar dated 21.12.2015 was passed because of an inadvertence on the part of the staff of the Police department who has since been proceeded with departmentally. According to the State, the respondent could not have been considered for compassionate appointment as he was already over aged for being considered to the post of Constable in the Police Department.
5. Perusal of the record would show that on the date when the respondent moved an application for compassionate appointment he was aged more than 39 years. The maximum upper age limit for

appointment to the post of Constable in the Police Department is 28 years. The respondent would be entitled for relaxation of 5 years in view of the fact that the respondent belonged to reserved category. That would raise the upper age limit from 28 to 33. The respondent had admittedly crossed the said age when he had applied. For argument sake if the respondent is further granted 5 years of relaxation being a candidate for compassionate appointment, even then the upper age limit gets enhanced upto 38 years. The respondent even then would not come within the zone of consideration as on the date of application he was more than 39 years .

6. In the given facts, according to the State counsel, the respondent would not be entitled for compassionate appointment and the review petition therefore has been filed.
7. This Court on hearing the submission of the State thus finds sufficient force in their argument but does not appreciate the manner in which the State has been conducting themselves. From perusal of record it clearly reveals that the respondent had already an order of appointment in his favour on 21.12.2015 which was not implemented. The State did not verify and scrutinize the age factor before issuance of the order dated 21.12.2015. Subsequently when the writ petition was filed, even then the State did not think it proper to promptly apprise the Court so far as the factual matrix of the case.
8. Reluctantly, though this court however is inclined to entertain the review petition. Accordingly, the order dated 21.08.2018 stands modified to the extent that the direction which this Court has granted

while disposing of WPS No.4807 of 2018, it shall be construed as no specific direction for appointment to the respondent herein having been made except for an appropriate order to be passed by the authority concerned intimating the respondent in respect of the decision that they have taken so far as the claim of the respondent for grant of compassionate appointment is concerned. Let an appropriate order be passed by the authority concerned in accordance with the rules with proper intimation to the respondent in this regard.

9. The review petition accordingly stands allowed and disposed of. Let a copy of this order be made part of the record of the original writ petition i.e. WPS No. 4807 of 2018.

**Sd/-**  
**(P. Sam Koshy)**  
**JUDGE**