

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 9238 of 2019**

1. Mahesh Kumar Prajapati, S/o. Late Gokul Parsad Prajapati, Aged About 66 Years, Ex Constable, C/o. Madhulika Prajapati, Mararpara, Kondagaon, District Kondagaon, Chhattisgarh – 494226
2. Madhulika Prajapati, D/o. Mahesh Kumar Prajapati, Aged About 30 Years, R/o. Mararpara, Kondagaon, P.S.- Kondagaon, Tehsil And District Kondagaon, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through The Director General Of Police, Chhattisgarh, Raipur.
2. Additional Director General Of Police (Administration) Police Headquarters Raipur, Superintendent Of Police District Police Office.
3. Superintendent Of Police, Office Of The Superintendent Of Police, District Bastar - Jagdalpur, Chhattisgarh

---- Respondents

For Petitioner : Mr. U.N.S.Deo, Advocate

For State/Respondents : Mr. Kunal Das, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16.12.2019**

1. The grievance of the petitioner is that Smt. Ramkumari Prajapati died in harness on 09.05.2011. The petitioner No.1/ Mahesh Kumar Prajapati is husband Retired Ex.Constable and petitioner No.2/ Madhulika Prajapati is daughter.
2. It is contended that the application was filed for compassionate appointment for petitioner No.2/ Madhulika Prajapati, who is daughter of the deceased, as petitioner No.1 is completely

dependent on the petitioner No.2. It is contended that the younger son had applied for compassionate appointment, however, the same was refused and he was persuaded to vacate the police quarter; consequently, he committed suicide. Subsequently, this application was filed but the same is rejected on the ground that the elder brother of the petitioner No.2 Ajay Kumar Prajapati is already in service. It is contended that without going into factual aspect and making enquiry as to what nature of dependency, the order has been passed, which is against the law laid down by this Court in case of *Smt. Sulochana Netam v. State of Chhattisgarh & Others*, decided on 23.11.2017 in WPS No.2728 of 2017.

3. Perused the documents. Perusal of the documents would show primarily the application has been filed by the petitioners that the petitioner No.1 who is aged about 66 years has suffered with paralysis attack and dependent on the daughter/ petitioner No.2 and the elder brother Ajay Kumar Prajapati who is married is living separately; therefore, petitioner No.2 may be given the compassionate appointment, however, the same is rejected on the ground that Ajay Kumar is already in government job.
4. In ***Smt. Sulochana Netam v. State of Chhattisgarh & Others, Writ Petition (S) No. 2728 of 2017***, decided on **23.11.2017**, this Court has examined scope of such a provision relating to consideration of cases of compassionate appointment to one of the dependents of the deceased government servant where any member of the family is in government service. It has been held that such a case would require

proper enquiry on the claim that one member of the family who is employed in government service is actually living separately and not providing any financial aid and help to other dependents of the family.

5. In paragraph 9 of the case of **Smt. Sulochana Netam** (supra) this Court has made the following observations :-

“9. In the considered opinion of this Court, in a case where claim of compassionate appointment is made on the ground that the other earning member of the family had started living separately and was not providing any financial help to the remaining dependant members of the family of the deceased and who are left in lurch, factual enquiry ought to be made by the competent authority to arrive at its own conclusion of facts as to whether this assertion of other earning member living separately is factually correct or no. If it is found, as a matter of fact, that the other earning member of the family at the time of death had already started living separately and not providing financial assistance to the remaining dependants of the family, compassionate appointment must follow to eligible dependant of the family. However, in the enquiry, if it is found that the claim is only to get employment without there being any need because other earning member of the family is not living separately and providing financial support, compassionate appointment may not follow. The aforesaid enquiry is required to be done even though the policy does not categorically state so. The State should consider by incorporating amendments in the policy to death with this such contingency where it is found that on the date of death of government servant, the other earning member was living separately and not providing any financial help.”

6. Similarly, this Court in the case of **Pramod Mishra v. State of**

Chhattisgarh & Others, W.P.S. No. 7039 of 2016, decided on **24.11.2017**, referring to the case of ***Smt. Sulochana Netam*** (supra), in paragraph 3, has held as follows:

“3. This Court in the case of Smt. Sulochana Netam Vs. State of Chhattisgarh and Ors. (WPS No.2728 of 2017, decided on 23.11.2017), has examined scope of such a provision relating to consideration of cases of compassionate appointment to one of the dependent of the deceased government servant where any member of the family is in government service. It has been held that such a case would require proper enquiry on the claim that one member of the family who is employed in government service is actually living separately and not providing any financial aid and help to other dependents of the family.”

7. The rejection of the claim of the petitioner on the said ground therefore does not appear to be justified. Accordingly, the impugned order Annexure P/2 dated 08.06.2017 is not sustainable and is set-aside. The respondents are directed to consider the case of the petitioner for compassionate appointment afresh after due verification of the dependency part of the petitioner on her brother. Let this exercise be done within a period of 90 days from the date of receipt of certified copy of this order.
8. The writ petition stands allowed and disposed of accordingly.

Sd/-
(Goutam Bhaduri)
Judge