

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 10594 of 2019**

- Piyush Kumar Gupta S/o Late Shri Rakesh Kumar Gupta, Aged About 25 Years
R/o In Front Of Krishi Mandi, Mela Road, Ratanpur, Tahsil Kota, District Bilaspur
Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Panchayat And Rural Development
Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur,
District Raipur Chhattisgarh
2. Upper Development Commissioner, Office Of Development Commissioner,
Indrawati Bhawan, Block-1, Ground Floor, Room No. 43 (Civ), Atal Nagar,
Raipur, District Raipur Chhattisgarh
3. Chief Executive Officer, Zila Panchayat, Bilaspur, District Bilaspur Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat Kota, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Shri V.A. Goverdhan, Advocate

For Respondents/State : Ms. Binu Sharma, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/12/2019**

1. Heard.
2. The grievance of the petitioner in the present writ petition is the rejection of the
candidature of the petitioner for grant of compassionate appointment on the
ground that if any of the family member is already in the government service
then the petitioner would not be entitled for the compassionate appointment.

3. It is contended that the father of the petitioner died in harness on 26.08.2018 while he was working on the post of Assistant Development Extension Officer at Janpad Panchayat, Kota, District Bilaspur (C.G.). It is contended that the petitioner being the son completely dependent on his father filed the application for compassionate appointment, however, the said application was rejected by order dated 26.09.2019 (Annexure P-1) on the ground that some of the other member of the family is already in the government job. It is stated that the said issue is covered by the ratio laid down in the case of **Suraj Balmiki Versus State of Chhattisgarh & anr. {WPS No.5994 of 2019, decided on 13.08.2019}**, wherein it was held that simply on the ground that some one in the family is in the government job the application for compassionate appointment cannot be rejected.

4. Learned State counsel do not dispute the ratio laid down supra.

5. This Court in **Suraj Balmiki Versus State of Chhattisgarh & anr. {WPS No.5994 of 2019}** on 13.08.2019 has passed the following order:-

“3. The object behind the framing of the scheme for grant of compassionate appointment is to ensure that the family members of the deceased employee are not put to unnecessary financial crisis or stage of penury on the death of bread-earner of the family. The respondent authorities were supposed to consider the dependency of the petitioner while deciding her case. Merely because the brother of the petitioner is in government employment by itself would not deny the claim of the petitioner for compassionate appointment. It is the issue of dependency which is more important to be taken care of. It could had been a situation where the brother of the petitioner is having his own family and must be living separately and it is only under compulsion and under prevailing circumstances that both the parents of the petitioner having died, the petitioner must be residing with his brother.

4. The respondents in the instant case appears to have rejected the claim of the petitioner only on the technicalities of the brother of the petitioner being employed elsewhere, without verifying the

dependency aspect.

5. 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 dependent 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 dependents of the family, compassionate appointment must flow to eligible dependent 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. 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 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. 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.”

8. 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, hasheld 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.”

9. 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/1 dated 06.10.2017 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.”

6. Likewise the similar ratio of judgment would cover the present case also.

Consequently, the rejection order of the application of the petitioner for compassionate appointment dated 26.09.2019 (Annexure P-1) 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 his father. Let this exercise be done within a period of 90 days from the date of receipt of the certified copy of this order.

7. Accordingly, the petition stands allowed to the above extent.

Sd/-

Goutam Bhaduri
Judge

Ashu