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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1025 of 2020**

1. Smt. Nandani Pradhan, W/o. Late Shri Jaylal Pradhan, Aged About 65 Years, R/o. BTI Road, Behind PCH Office, Ward No. 29, Mahasamund, Police Station, Tahsil And District- Mahasamund, Chhattisgarh.
2. Ku. Aakansha Pradhan, D/o. Late Shri Jaylal Pradhan. Aged About 28 Years. R/o. BTI Road, Behind PCH Office, Ward No. 29, Mahasamund, Police Station, Tahsil And District- Mahasamund, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of Agriculture And Bio-Technology, Mahanadi Bhavan, Mantralaya, Police Station And Post- Rakhi, Atal Nagar, Raipur, District- Raipur, Chhattisgarh.
2. Joint Director, Office Of Divisional Joint Director, Department Of Agriculture And Bio-Technology, Raipur Division, District- Raipur, Chhattisgarh.
3. Deputy Director, Office Of Deputy Director, Department Of Agriculture, Gariyaband, District- Gariyaband, Chhattisgarh.
4. Assistant Soil Conservator Officer, Office Of Deputy Director, Department Of Agriculture, Gariyaband, District- Gariyaband, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State/Respondents	:	Mr. Neeraj Pradhan, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****18.02.2020**

Heard

1. The grievance of the petitioner is that Jaylal Pradhan, father of the petitioner No.2, died in harness on 23.08.2017. He was

serving with the Soil Conservation Department in the post of Surveyor. Subsequent to his death, the petitioner No.2, daughter of late Jaylal Pradhan, filed an application for compassionate appointment on 05.08.2017 (Annexure P-3). The said application was dismissed initially on 13.10.2017 by Annexure P-4 on the ground that the brother of the petitioner No.2 is already in the government job. Subsequently, the said application was again repeated on 03.07.2018 by Annexure P-5 that too stands rejected on 30.08.2018 by Annexure P-6 on the ground that two persons from the family are already in the government job. The rejection was made as per clause 2(1) & 8 of the circular of the State dated 29.08.2016 which contemplate that when someone from family is already in the government job then any other cannot be considered for compassionate appointment.

2. Learned counsel for the petitioners would submit that the petitioner No.1 is wife aged about 65 years and the petitioner No.2 is daughter for whom the compassionate appointment was sought for. It is stated specific case of the petitioner is that the deceased late Jaylal Pradhan was living alongwith petitioner No.1 & 2 and they were dependent on deceased whereas the brother of the petitioner No.2 namely Pranjal Pradhan is working on the post of Medical Officer at Mainpur, Gariyaband and another brother Prateek Pradhan is working in the post of Assistant Project Officer at Sukuma; whereas the petitioners are living at Mahasamund and were completely dependent on the deceased. Therefore, the petitioner No.2, daughter, may be given the

compassionate appointment and the rejection on the ground that two brothers are already in job cannot be sustained. He further submits that in the like nature, the issue has already been decided in case of *Smt. Sulochana Netam v. State of Chhattisgarh & Others*, decided on 23.11.2017 in WPS No.2728 of 2017.

3. 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.
4. 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.”

5. 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.”

6. In view of the above, the impugned orders dated 13.10.2017 (Annexure P-4) and 30.08.2018 (Annexure P-6) are set-aside. The respondents are directed to consider the case of the petitioner No.2 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.

7. The writ petition stands allowed and disposed of accordingly.

**Sd/-
(Goutam Bhaduri)
Judge**

ashok