

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2355 of 2020**

- Veermani Sonwani S/o Late Than Singh Sonwani Aged About 30 Years R/o Sikolabhatha Jayanti Nagar, Ward No 16 Durg District Durg Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Agriculture And Bio Technology Department, Mahanadi Bhawan, Mantralaya, Atal Nagar Mantralaya, Nawa Raipur Chhattisgarh
2. The Director, Directorate Of Agriculture, Nawa Raipur, District Raipur Chhattisgarh
3. The Divisional Joint Director Agriculture And Bio-Technology Department, Raipur Division, Raipur Chhattisgarh
4. The Deputy Director (Agriculture), Durg, District Durg Chhattisgarh
5. The Collector, Durg District Durg Chhattisgarh

---- Respondents

For Petitioner : Ms. Sharmila Singhai, Advocate

For Respondents/State : Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****23/06/2020**

1. Heard.
2. The grievance of the petitioner is that the father of the petitioner namely Than Singh Sonwani died in harness on 19.10.2016 vide Annexure P-2. The petitioner being the son and dependent, applied for compassionate appointment and the said application for compassionate appointment was rejected by order dated 25.09.2017 & 07.03.2020 (Annexure P-1).

3. Learned counsel for the petitioner would submit that the rejection of the application at the threshold on the ground that brother of the petitioner is working in the government job would be contrary to the authoritative decision given by this Court. She would further refer to the judgment passed by this Court in WPS No.1025 of 2020 dated 18.02.2020 (Annexure P-6) and would submit that without any enquiry on the dependency of the person claiming compassionate appointment, the application for compassionate appointment cannot be dismissed.
4. Per contra learned State counsel opposes the arguments.
5. Perused the judgment passed by this Court in WPS No.1025 of 2020 dated 18.02.2020, wherein this Court has passed the following order:-

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. The rejection order dated 25.09.2017 & 07.03.2020 when are translated in the judgment passed by this Court, it would show that that it is contrary to the principles laid down by this Court as in the threshold the application for

compassionate appointment has been rejected on the ground that the brother of the petitioner is working in the government department, therefore, under these circumstances, the order dated 25.09.2017 & 07.03.2020 are set aside. The respondents No.2 & 4 are directed to conduct an enquiry and consider the case of the petitioner for compassionate appointment after due verification of the dependency fact of the petitioner on his father. Let the entire exercise be carried out within a period of 6 months from the date of receipt of this order.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu