

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4146 of 2020**

- Md. Imran Khan S/o Late Md. Ayyub Khan Aged About 32 Years R/o Santoshi Nagar Chaurasiya Colony In Front Of Navrang Public School Raipur Tehsil And District Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Water Resource Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil And District- Raipur, Chhattisgarh, Pin 492002
2. Chief Engineer Mahanadi Pariyojana, Water Resource Department, Tehsil And District Raipur, Chhattisgarh
3. Superintending Engineer Mahanadi Mandal, Water Resource Department Raipur, Tehsil And District Raipur, Chhattisgarh
4. Executive Engineer Mahanadi Jalashay, Water Resource Department Raipur, Tehsil And District Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Vaibhav P. Shukla, Advocate
For Respondents/State	:	Ms. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****19/10/2020**

1. Heard.
2. The grievance of the petitioner is that the father of the petitioner who was in the government service died in harness on 11.11.2019. Thereafter, according to the policy guidelines, the petitioner applied for compassionate appointment. However, the application of the petitioner was rejected by order dated 26.05.2020 (Annexure P-1) on the ground that one of the son of the deceased is already in government service and is working at Primary Health Centre Pendarwani, Rajnandgaon as a Doctor, therefore, petitioner

would not be entitled for compassionate appointment.

3. It is pleaded that without going into the 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 the case of ***Smt. Sulochana Netam Vs. State of Chhattisgarh & others***, decided on 23.11.2017 in WPS No.2728 of 2017.
4. Perused the order dated 26.05.2020 (Annexure P-1) whereby the petitioner's claim for compassionate appointment has been rejected on the ground that already someone from the family is in the government service, therefore, the petitioner is not entitled to be appointed on the ground of compassionate appointment.
5. 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.
6. 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.”

7. 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.”

8. Considering the aforesaid provisions of the law laid down as against the order of rejection of the application for compassionate appointment dated 26.05.2020 (Annexure P-1), the same cannot be sustained and accordingly the order dated 26.05.2020 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 the person who is already in service. Let this exercise be completed within a period of 90 days from the date of receipt of certified copy of this order.

9. The writ petition stands allowed to the extent indicated above.

Sd/-

Goutam Bhaduri
Judge

Jyoti