

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 568 of 2019**

(Arising out of order dated 03.01.2019 passed in Writ Petition (S) No.8412 of 2018 by the learned Single Judge)

Yashwant Kumar Sahu S/o Late Shri Lalit Kumar Sahu Aged About 40 Years R/o Village Tekari, Post Tekari, Block Abhanpur, District Raipur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. District Education Officer District Raipur Chhattisgarh.

---- Respondents

For Appellant	: Shri B.S. Rajput, Advocate
For Respondent/State	: Shri Ghanshyam Patel, Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgement on Board

P. R. Ramachandra Menon, Chief Justice

18.02.2020

1. Dismissal of the writ petition claiming compassionate appointment, because the inordinate delay on the part of the Appellant in moving this Court, made the Writ Petitioner to feel aggrieved, who is now before this Court by way of this appeal. The appeal itself is belated by 265 days in filing the same, which is sought to be condoned by filing an application for condonation of delay.

2. We have heard Shri B.S. Rajput, the learned counsel appearing for the Appellant as well as Shri Ghanshyam Patel, the learned counsel representing the State.
3. Even though we are not much satisfied with the explanation offered, considering the facts and circumstances of the case, we condone the delay and as agreed by the parties, the matter was heard on merit.
4. The father of the Appellant was working as Assistant Teacher at Kunkuri, Block Arang, District Raipur and while so, he died in harness on 30.10.1992. The Appellant was a minor at that point of time, his date of birth being 03.11.1978 and he became major on 03.11.1996. After attaining majority, the application for compassionate appointment was preferred, which was considered and rejected as per order dated 09.08.2000 holding that the Petitioner was not eligible for the relief sought for.
5. The Appellant took nearly two decades to raise grievance against the said order. The writ petition was filed on 13.12.2018, virtually after 18 years and this made the learned Single Judge to decline interference and dismiss the writ petition. The reasoning given by the learned Single Judge as contained in paragraph-2 of the judgment, is in the following terms :

“2. The facts relevant for the adjudication of the present writ petition is that the father of the petitioner, an employee of the respondents, died in harness as early as on 30.10.1992. It is claimed that the petitioner at that relevant point of time was minor and he attained the age of majority only on

03.11.1996. A perusal of the record would show that on his attaining the age of majority the petitioner had moved an application for compassionate appointment but the same was not considered and rejected vide Annexure – P/2 dated 09.08.2000. The records further reveal that the said order dated 09.08.2000 has not been challenged by the petitioner at that point of time and is now challenging the same after a period of eighteen years. The delay in filing the petition is being explained by another correspondence made by the State Government vide Annexure– P/4 dated 28.06.2013 which again is a correspondence refusing to entertain his claim petition. After the correspondence made on 28.06.2013 also there is delay of more than 5½ years in filing of the present writ petition. No plausible explanation has been provided by the petitioner for this inordinate delay. It is settled position of law particularly in the field of compassionate appointment that the claim for compassionate appointment should be made immediately on the death of the deceased employee. This claim cannot be kept alive till eternity. In the instant case, though the petitioner was minor on the date of death of the deceased employee but his mother and another family member could have also claimed for compassionate appointment. Having not done so, a strong inference is drawn that the petitioner had sufficient means to survive.”

6. Despite the elaborate hearing, the inordinate delay in approaching this Court could not be explained from the part of the Appellant, but for stating

that some oral assurance was given from the part of the Respondents that the claim would be considered the appointment would be given. The said version is not liable to be taken as an explanation; much less anything satisfactory. Even otherwise, compassionate appointment is an exception to normal rule and it cannot be claimed as a matter of right.

7. The discretionary jurisdiction of this Court is never to extend relief to such a person who was taking rest on armchair, unmindful of his rights and liberties in this regard. We find support from the ruling rendered by the Hon'ble Supreme Court in the matter of **Rabindra Nath Bose and Others v. Union of India and Others** reported in **AIR 1970 SC 470**.
8. There is no merit in the writ appeal. It is dismissed accordingly.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge