

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.5906 of 2014**

1. Smt. Meena Tiwari, Wd/o Late Ramadhar Tiwari, Aged About 56 Years, R/o Gandhi Nagar, Near Govt. College, Distt Bilaspur, Chhattisgarh
2. Dinanath Tiwari, S/o Late Ramadhar Tiwari, aged about 23 years, R/o Gandhi Nagar, Near Govt. College, District Bilaspur (C.G.)

----- Petitioners**Versus**

1. State of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, Mantralaya, New Raipur, P.S. Rakhi, Dist Raipur, Chhattisgarh
2. Director General of Police, Police Head Quarter, Civil Lines, Raipur, Chhattisgarh
3. Inspector General of Police, Bilaspur Range Office of I.G.P., Bilaspur, Chhattisgarh
4. Superintendent of Police, Office of S.P., Bilaspur, Chhattisgarh

----- Respondents

For Petitioner	Mr. Rakesh Pandey, Advocate
For Respondent-State	Mr. Soumya Rai, PL

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****16/07/2021**

1. Mr. Ramadhar Tiwari working as Assistant Sub Inspector in the Department of Home died in

harness on 20.08.2007 (Annexure-P/2). The petitioner No.1, the widow of Ramadhar Tiwari and the mother of petitioner No.2, made an application for grant of compassionate appointment to the petitioner No.2 on 09.10.2007 (Annexure-P/6), which has been rejected on 19.03.2008 conveyed to the petitioner vide memo/letter dated 31.08.2012 and 03.10.2013 vide Annexure-P/1 stating that the elder son of the deceased and the petitioner No.1 is the government servant working as Shikha Karmi Grade-III, therefore, as per circular dated 10.06.2003, the petitioner No.2 is not entitled for compassionate appointment, against which the present writ petition has been preferred.

2. Mr. Rakesh Pandey, learned counsel for the petitioner, would submit that though the petitioner No.2 is working as Shiksha Karmi Grade-III in the Government Department, he is residing separately and maintaining his family, as such the enquiry ought to have been made with regard to the dependency factor while rejecting the application for

compassionate appointment on the ground that one of the members of the family is already in government service. He would rely upon the judgment rendered by this Court in the matter of **Veermani Sonwani vs State of Chhattisgarh and others**, decided on 23.06.2020 in WPS No.2355/2020. He would further submit that the matter deserves to be remitted back for fresh consideration on the application for grant of compassionate appointment to the petitioner No.2 in accordance with the decision rendered by this Court in the matter of **Veermani Sonwani**(supra).

3. Mr. Soumya Rai, learned State counsel for the State, would support the impugned order and would submit that according to the circular, the case of the petitioner No.2 for grant of compassionate appointment has rightly been rejected.
4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.

5. It is not in dispute that Mr. Ramadhar Tiwari working as Assistant Sub Inspector in the Department of Home died in harness and the application for grant of compassionate appointment to the petitioner No.2 was made within time by the petitioner No.1, which was rejected on the ground that one of the members of the family, the petitioner No.2, the elder son of the petitioner No.1 and Mr. Ramadhar Tiwari, is already working as Shikha Karmi Grade-III in the Government Department.
6. This Court in the matter of **Veermani** (supra) has clearly held that while granting the compassionate appointment, the fact of dependency has to be enquired and thereafter the matter has to be considered. This Court in para 6 of WPS No.2355/2020 has held as under:-

“The rejection order dated 25.09.2017 & 07.03.2020 when are translated in the judgment passed by this Court, it would show 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. Since no enquiry has been made with regard to dependency of the petitioner No.2 over the deceased and the application has been rejected only on the ground that one of the family members, the petitioner No.2 is already working as Shikha Karmi Grade-III in the Government Department, the petitioner No.2 is not entitled for compassionate appointment in terms of the circular, the order of the respondent No.4 is *per se* bad and in teeth of the decision rendered by this Court in the matter of **Veermani** (supra). Accordingly, the impugned order dated 19.03.2008 conveyed to the petitioner vide memo/letter dated 31.08.2012 and 03.10.2013 vide Annexure-P/1 is hereby set aside and the matter is remitted back to the respondent No.4, the Superintendent of Police, Bilaspur for considering the case afresh for grant of

compassionate appointment to the petitioner No.2 in accordance with law after making enquiry as to the dependency as held by this Court in the matter of **Veermani** (supra) within a period of 2 months from the date of receipt of copy of this order.

8. The writ petition is allowed to the extent indicated above. No order as to cost (s).

Sd/-
Sanjay K. Agrawal
Judge

Nirala