

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 544 of 2021**

1. Smt. Sarvari Baghel W/o Late Shri Ramesh Kumar Baghel Aged About 56 Years R/o Village And Post- Paneka, Polcie Station- Basantpur, Tahsil And District- Rajnandgaon, Chhattisgarh
2. Ku. Bhanupriya Baghel D/o Late Shri Ramesh Kumar Baghel Aged About 31 Years R/o Village And Post- Paneka, Police Station Basantpur, Tahsil And District Rajnandgaon, Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh through Its Secretary Department Of Revenue And Disaster Management, Mahanadi Bhavan, Mantralaya, Police Station And Post Rakhi, Atal Nagar, New Raipur, District Raipur, Chhattisgarh,
2. Collector, Office of Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh
3. Deputy Collector, Office of Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Respondents

For petitioners	:	Mr. Abhishek Pandey, Advocate.
For State	:	Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15-02-2021**

1. Challenge in the present writ petition is to Annexure P/3 dated 21-12-2020, whereby the claim of the petitioner No.2 for compassionate appointment has been rejected on the ground that the brother of the petitioner No.2 is in government service. Policy of the compassionate appointment is

applicable in the State of Chhattisgarh and in case a member of the family is in government service, he would not be eligible for grant of compassionate appointment.

2. Contention of the petitioner, at this juncture, is that the petitioner No.1 is the widow of the deceased employee Ramesh Baghel and petitioner No.2 is the daughter of the deceased employee. The said deceased employee while working on the post of Asst. Superintendent in the District office of Rajnandgaon, died in harness on 22-10-2020. According to the petitioners, in addition to the petitioners, there is one more member in the family of the deceased who was dependent upon the deceased employee i.e., the younger daughter of the deceased employee who would be the daughter of petitioner No.1 and sister of petitioner No.2. Further contention of the petitioners is that the son of the petitioner No.1 and brother of the petitioner No. 2 who is employed in government service is actually living separately and not providing any financial aid and help to the dependants of the family.
3. It is the further contention of the petitioners that the son of petitioner No.1 and brother of petitioner No.2 is in government employment and he has his own family and children to take care of. That the petitioners herein are not being provided any financial assistance to sustain by the brother and they are totally dependent upon the earning of the

deceased employee.

4. Further contention of the petitioners is that the respondent-authority have strictly and in a very hyper technical manner rejected the claim of the petitioner No.2 for compassionate appointment, whereas authority concerned ought to have got the fact verified whether there was any dependency or any financial assistance being provided by the said person who is in government employment.
5. Learned counsel for the petitioners relied upon a decision of this court in **WPS No. 5848 of 2018 (Kumari Lavli Thakur vs. State of Chhattisgarh and others)** which was disposed of on **6-9-2018**. He also relied upon a decision of this court in **WPS No. 2728 of 2017 in the case of Smt. Sulochana Netam vs. State of Chhattisgarh and others, decided on 23-11-2017** wherein also similar issue has been decided by co-ordinate Bench of this court and recently by this court in **WPS No. 407 of 2021 (Sanad Kumar Shyamale vs. State of Chhattisgarh and others)** decided on 9-2-2021.
6. 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 dependant 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 dependants in the family.

7. It would be relevant, at this juncture, to quote para 9 of the case of Smt. Sulochana Netm (supra) and it was the basis for all subsequent decisions of this court in similar nature of dispute.

“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”.

8. Given the aforesaid decisions rendered by this court, it is necessary, at this juncture, to consider the fact of the present case also wherein from the contention of the petitioners, it appears that there is this brother of the petitioner No.2 and son of the petitioner No.1 in government employment, but it is being categorically contended that he was already married and he has got his own family and children to take care of and that he was not providing any financial assistance to the petitioners. What is more required to be considered is as soon as one family member gets married and he has his own family and children to care of, will the said person thereafter fall within the definition of a family of the deceased employee. What is all more necessary to be considered is whether on the date of death of the deceased the petitioners herein were dependant upon the said employee or upon the earning of the

deceased employee. These are facts which all had to be subjected to an inquiry by the respondent authority before reaching to the conclusion so far as grant of employment is concerned.

9. A bare reading of the impugned order dated 21-12-2020 (Annexure P/3) would reveal that no such enquiry as such has been conducted or considered by the authority concerned before rejecting the claim of the petitioners. Under these circumstances, the impugned order dated 21-12-2020 (Annexure P/3) would not be sustainable and the matter needs to be reconsidered at the level of the respondents.
10. Accordingly, the case of the petitioners stands remitted back to the authorities concerned for reconsidering the claim of the petitioners, subject to an enquiry so far as the dependency part is concerned and a fresh order be taken on merit at the earliest, preferably within a period of 90 days from the date of receipt of copy of this order.
11. This writ petition stands allowed.

Sd/-

(P. Sam Koshy)
Judge

Raju