

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1278 of 2015**

Nagendra Shriwas S/o Late Ram Dulare Shriwas, Aged about 31 years, R/o Qtr. No. LIG 47, Shivaji Nagar, Korba, Distt. Korba, Chhattisgarh.

---Petitioner

Versus

1. Chhattisgarh State Power Holding Company Limited (A Government of Chhattisgarh Undertaking Company) Successor Company of Chhattisgarh State Electricity Board through Managing Director, Vidyut Sewa Bhawan, Danganiya, Raipur, Chhattisgarh.
2. Deputy General Manger, Chhattisgarh Power Holding Company Limited, Vidyut Bhawan, Raipur, Chhattisgarh.
3. Chief Engineer (Production) Korba Chhattisgarh Power Holding Company Limited, (CSEB) Division Korba East, Distt. Korba, Chhattisgarh.
4. Superintendent Engineer Chhattisgarh Power Holding Company Limited, Korba, Division Korba East, Distt. Korba, Chhattisgarh.

--- Respondents

For Petitioner :- Mr. Sanjay Patel, Advocate
For Respondents :- Mr. K.R. Nair, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board (Through Video Conferencing)

19/07/2021

1. Mr. Sanjay Patel, learned counsel for the petitioner, would submit that petitioner's application for grant of compassionate appointment was rejected on the ground that as per Circular dated 28/02/2004 (Annexure R/1), petitioner, being brother of the deceased/Government servant, is not entitled for compassionate appointment whereas Circular dated 30/07/2013 (Annexure P/2) would be applicable in petitioner's case which would make him entitled for grant of compassionate appointment.

2. Mr. K.R. Nair, learned counsel for the respondents, would submit that deceased Government servant/petitioner's brother died on 27/07/2005 and accordingly, Circular dated 28/02/2004 (Annexure R/1) would be applicable and as such, petitioner's application has rightly been rejected holding that he, being the brother of the deceased, would not be entitled for compassionate appointment.

3. I have heard learned counsel for the parties at length and perused the record.

4. It is not in dispute that petitioner's brother, who was working on the post of Assistant Grade II, died in harness on 27/07/2005 and during that

period, Circular dated 28/02/2004 (Annexure R/1) was applicable in which it has clearly been mentioned that brother of the deceased Government servant would not be entitled for compassionate appointment, though it has been amended by way of Circular dated 30/07/2013 (Annexure P/2) which makes the brother of the deceased also eligible for grant of compassionate appointment, but in the instant case, the Circular applicable on the date of death of petitioner's brother would be Circular dated 28/02/2004 (Annexure R/1) in which brother of the deceased Government servant is not entitled for compassionate appointment.

5. The Supreme Court in the matter of **Abhishek Kumar v. State of Haryana and Others**¹ has already held that the Circular/Rules prevailing at the time of death of the deceased Government servant would be applicable for considering the case for grant of compassionate appointment.

6. In the matter of **Indian Bank v. Promila**², their Lordships of the Supreme Court have held that compassionate appointment is not alternative to normal course of appointment and there is no inherent right to seek compassionate appointment.

The object of compassionate appointment is only to

1 (2006) 12 SCC 44

2 (2020) 2 SCC 729

provide solace and succour to family in difficult time and thus, relevancy is at stage of time when employee passes away. It has further been held that it is only the relevant Scheme prevalent on the date of demise of the employee, which could have been considered to be applicable, in view of the judgment passed in Canara Bank v. M. Mahesh Kumar³.

7. Reverting back to the present case in light of the aforesaid principle of law laid down by the Supreme Court, it is quite vivid that petitioner's brother died in harness on 27/07/2005 and the relevant Circular applicable at that time would be Circular dated 28/02/2004 (Annexure R/1) in which it has clearly been mentioned that brother of the deceased Government servant would not be entitled for grant of compassionate appointment. As such, petitioner's application for grant of compassionate appointment has rightly been rejected in accordance with Circular dated 28/02/2004 (Annexure R/1).

8. The writ petition deserves to be and is accordingly dismissed. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge