

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.3324 of 2016**

- Ghanshyam Kumar Sahu, S/o Shri Ram Swarup Sahu, Aged About 32 Years, R/o Qtr. No.H-31, Irrigation Colony, Rudri, P.S. Rudri, Tahsil and Distt. Dhamtari, Chhattisgarh

----- Petitioner**Versus**

- 1.State of Chhattisgarh Through The Secretary, Department of Water Resources, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
- 2.Engineer-in-Chief, Department of Water Resources, Sihawa Bhawan, Raipur, Chhattisgarh
- 3.Chief Engineer, Mahanadi Godawari Kachhar, Department of Water Resources, Raipur, Chhattisgarh
- 4.Executive Engineer, Water Resources Division, Dhamtari, Distt. Dhamtari, Chhattisgarh
- 5.Collector, Dhamtari, Distt. Dhamtari, Chhattisgarh

----- Respondents

 For Petitioner

Mr. R. K. Agrawal, Advocate

Hon'ble Justice Shri Sanjay K. Agrawal
Order On Board**19/07/2021**

1. Mr. R. K. Agrawal, learned counsel for the petitioner, would submit that the petitioner's

application for grant of compassionate appointment has been rejected on the ground that his two brothers are already in the government service, therefore, compassionate appointment cannot be granted to him. He would further submit that in the matter of **Smt. Sulochana Netam vs State of Chhattisgarh and others**, decided on 23.11.2017 in WPS No.2728/2017, this Court has directed for enquiry as to the dependency of the petitioner upon the government servant before deciding the application for compassionate appointment.

2. Learned State counsel would support the impugned order and would submit that two brothers of the petitioner are already in government service, therefore, compassionate appointment cannot be granted to the petitioner.
3. I have heard learned counsel for the parties, considered their rival submissions and went through the records with utmost circumspection.
4. This Court in paragraphs 9 & 10 of WPS

No.2728/2017 has held as under:-

"9. In the considered opinion of this Court, in a case, where claim of compassionate appointment is made on the ground that the other member of the family had started living separately and not providing any financial help to the remaining dependent members of the family, who are at 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 not. 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 dependents of the family, compassionate appointment must follow to eligible dependent 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 deal 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.

10. In the present case, I am inclined to issue direction to the respondents to hold enquiry in the matter to verify the petitioner's

claim that her father-in-law is living separately and not providing financial help and therefore, the petitioner is in need of compassionate appointment. The impugned order is set aside and the matter is remitted to the Superintendent of Police, Special Task Force, Durg. The petitioner may submit all necessary documentary evidence in support of her claim that her father-in-law is not providing financial help and living separately. In the enquiry, if it is found that the petitioner is not getting financial help and father-in-law is living separately, the petitioner's case for grant of compassionate appointment should be considered favourably. The enquiry should be made within a period of three months from the date of receipt of a copy of this order by the Superintendent of Police, Special Task Force, Durg."

5. In view of the above, the matter is remitted to the State Government for making an enquiry about dependency of the petitioner over the deceased government servant and whether his brothers are supporting the petitioner or not and they are living separately in light of the decision rendered by this Court in the matter of **Sulochana Netam** (supra) and thereafter pass a fresh order in accordance with law, on its own merits within a period of 2 months from the date of receipt of copy of this order.

6. With the aforesaid observation, the writ petition stands disposed of. No order as to cost (s).
7. The petitioner is at liberty to make additional representation, if he so desires.

Sd/-
Sanjay K. Agrawal
Judge

Nirala