

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1371 of 2021

- Narendra Ugre S/o Late Shyam Lal Ugre Aged About 20 Years Qualification ITI Trained, R/o Qtr. No. 48/25, Block Number 48, Commandant Campus, 6th Battalion, Chhattisgarh Armed Forces, Raigarh District Raigarh Chhattisgarh. Permanent Address Sant Ravi Das Nagar, Ward No. 10, Sharda Chowk, Janjgir District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. The State Of Chhattisgarh Through Secretary, Department Of Home, Mahanadi Bhawan Atal Nagar Nawa Raipur, Raipur District Raipur Chhattisgarh.
2. Special Director General Of Police Chhattisgarh Armed Force, Police Head Quarters, Raipur District Raipur Chhattisgarh
3. Deputy Inspector General Of Police Chhattisgarh Armed Force North Region, Surguja District Surguja Chhattisgarh.
4. Commandant 6th Battalion, Chhattisgarh Armed Force Raigarh District Raigarh Chhattisgarh.

---- Respondents

For Petitioner : Shri A.K. Prasad, Advocate

For Respondents/ State : Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25.03.2021

Heard

1. Challenge in the present writ petition is to Annexure P-1 dated 03.11.2020, whereby the respondents have rejected the petitioner's claim for compassionate appointment only on the ground that one of the brother of the petitioner is in government service.
2. The brief facts relevant for adjudication of this present writ petition is that the father of the petitioner namely Shyam Lal Ugre working on the post of

Constable died in harness on 27.07.2020. The deceased Shyam Lal Ugre left behind his widow namely Mem Bai Ugre and four sons namely Ravi Prakash Ugre, Virendra Kumar Ugre, Vinay Kumar Ugre and Narendra Ugre. Of the aforesaid four sons Ravi Kumar Ugre, eldest son is in government service and is already married and has his own children and family to take care of and was also residing separately and is posted at District Balodabazar. So far as the, widow and other three sons of the deceased are concerned they were directly dependent upon the earnings of the deceased employee and therefore the youngest son Narendra Ugre put forth his claim for compassionate appointment after obtaining the NOC from all the other legal heirs. However, after consideration of the application by the impugned order dated 03.11.2020 claim of the petitioner was rejected. It is this rejection which has led to the filing of the present writ petition.

3. The main contention of the learned counsel for the petitioner is that the eldest son who is said to be in government service since has his own children and family to take care of, he was not supporting the petitioner who was otherwise only dependent on the income of the deceased employee. The petitioner further contends that the authorities concerned ought to have at least conducted a preliminary enquiry to ascertain the dependency part before rejecting the claim of the petitioner only on hyper technical ground. It is further contended that the scheme of compassionate appointment framed by the State government dis-entitles the candidate for compassionate appointment if there is any other family member in government service.
4. Learned counsel for the petitioner relies upon the judgment of this Court in the case of **Smt. Sulochana Netam Vs. State of C.G. and others WPS No. 2728 of 2017** and also **WPS No. 5848 of 2018 (Kumari Lavi Thakur Vs. State of C.G.)** wherein in both the cases this High court has specifically ordered the authorities to first conduct the preliminary enquiry at least to

ascertain the dependency part and only thereafter reject the claim on the ground of another family member being in government service.

5. Per contra, learned State counsel on the other hand submits that since the policy of the State government for compassionate appointment has a specific provisions of dis-entitling the candidate for compassionate appointment in the event of another family member being in government service and as per the State counsel since the policy has a specific provision the authorities concerned have strictly abide by the laws of the policy while rejecting the claim of the petitioner and therefore the action of the State cannot be said to be contrary to the policy for compassionate appointment
6. Having heard all the contentions put forth by either sides and on perusal of records.
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 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 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 petitioner, it appears that there is this brother of the petitioner who is 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 the 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 03-11-2020(Annexure P/1) would reveal that no such enquiry as such has been conducted or considered by the authority concerned before rejecting the claim of the petitioner. Under these circumstances, the impugned order 03-11-2020(Annexure P/1) would not be sustainable and the matter needs to be reconsidered at the level of the respondents.

10. Taking into consideration the aforesaid judicial pronouncement made by this High Court and when on facts the present case is considered, it would reveal that on the date of death the eldest son of the petitioner was already married and had his own wife, children and family to take care of. Moreover, the said son was residing at a far away place District Balodabazar and the deceased left behind his wife and three sons who were totally dependent upon the earning of the deceased employee for sustaining themselves and it is for this reason the aspect of dependency of the petitioner on the deceased was required to be enquired before rejecting it on hyper technical grounds.

11. Accordingly, the case of the petitioner stands remitted back to the authorities concerned for reconsidering the claim of the petitioner, subject to an enquiry so far as the dependency part is concerned and a fresh order be passed on merits at the earliest, preferably within a period of 90 days from the date of receipt of copy of this order.

12. This writ petition stands allowed.

Sd/-
(P. Sam Koshy)
Judge