

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (SERVICE) NO. 1752 OF 2021**

- Mukesh Kumar Kumbhakar, S/o Samrau Ram Kumbhakar, aged about 31 years, R/o Khumarpara, Sadar Road, Ward No.12, Gobra Nawapara, Tahsil Abhanpur, District Raipur (CG)

... Petitioner**versus**

1. The State of C.G., through Secretary, Department of School Education, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Raipur, District Raipur (CG)
2. Directorate of Public Instructions, Indrawati Bhawan, Atal Nagar, Nawa Raipur, Raipur, District Raipur (CG)
3. Joint Director, School, Education, Raipur Division, Raipur, District Raipur (CG)
4. The Collector, Dhamtari, District Dhamtari (CG)
5. District Education Officer, Dhamtari, District Dhamtari (CG)
6. Block Education Officer, Magarlod, District Dhamtari (CG)

... Respondents

For Petitioner	:	Mr. A.K. Prasad, Advocate.
For Respondents/State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/04/2021**

1. Aggrieved by the decision of Respondents, dated 23.1.2021, the present Writ Petition has been filed by Petitioner.
2. Vide the impugned order dated 23.1.2021, the Respondents have rejected the claim of Petitioner on the ground of family member of the deceased employee being in government employment.
3. Facts of the case in brief are that the deceased employee in the instant case is Khilendra Kumar Kumbhakar. He was working as a Teacher of Primary School under the Respondents. He died in harness on 17.6.2020. Petitioner herein is the brother of the deceased employee. Petitioner filed an application for grant of compassionate appointment which has been rejected by the Respondents vide the impugned order holding that since the wife/widow of the deceased employee herself is in government employment working as a Government Teacher, the question of employment to Petitioner was not sustainable.

4. Contention of learned Counsel for Petitioner is that the Authorities ought to have considered the aspect of dependency of Petitioner upon the deceased employee and should have also enquired upon the aspect as to whether the widow of the deceased employee would sustain the Petitioner or not. Further contention is that the deceased employee has left behind his mother as also the Petitioner, who were dependant upon the deceased employee.

5. It is a settled position of law that compassionate appointment has not to be construed as another mode or source of recruitment. The very purpose of having the welfare scheme of compassionate appointment is to ensure that the family members of the deceased employee are able to tide away the financial stringency that may arise on the death of the sole bread earner. The intention of providing the compassionate appointment also is to ensure that the family members do not face the situation of starvation on account of losing the life of the person who was supporting the family for their sustenance.

6. In the instant case, the Petitioner, who has claimed for compassionate appointment, is the brother of the deceased employee. It is not a case where the deceased employee was a bachelor, rather, it is a case where the deceased employee was already a married person and has his own wife. The wife of the deceased employee admittedly is in government employment as she is working as a Government Teacher. This very fact establishes that there is sufficient source of income available for the widow and her children to sustain. Once when the deceased employee has his own wife/widow alive, under the circumstances, the claim for compassionate appointment cannot be shifted to any other member of the family of the deceased employee other than the widow and her children.

7. Under the circumstances, if the Respondents have rejected the claim of Petitioner for grant of compassionate appointment on the given facts, the same cannot be said to be either malafide or arbitrary in any manner.

8. Writ Petition thus being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE