

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3097 of 2015**

Smt. Mamta Bharge, Wd/o Late Ambika Lal Bharge,
Aged about 25 years, R/o Khusrupali, Tahsil
Basna, Distt. Mahasamund at Present R/o Village
Sapos, Medhapali, Tahsil Dabhara, Distt. Janjgir-
Champa, Chhattisgarh.

---Petitioner**Versus**

1.State of Chhattisgarh, Through The Secretary,
Home Department, Mantralaya, Mahanadi Bhawan, New
Raipur, Distt. Raipur, Chhattisgarh.

1A. State of Chhattisgarh through The Secretary,
General Administration Department, Mantralaya,
Mahanadi Bhawan, New Raipur, Distt. Raipur,
Chhattisgarh.

2.Director General of Police, Police Head Quarter,
Raipur, Chhattisgarh.

3.Assistant Inspector General of Police
(Administration), Head Quarter Raipur, Distt.
Raipur, Chhattisgarh.

4.Superintendent of Police, Bastar, Jagdalpur,
Chhattisgarh.

--- Respondents

For Petitioner :- Ms. Meena Shastri, Advocate

For State :- Mr. Animesh Tiwari, Dy. A.G.

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

16/07/2021

1. This is a classic case where petitioner's husband, being a Constable and part of the anti-naxalite programme "Crake Section", suffered serious bullet injuries and succumbed to death and thereafter, petitioner immediately applied for grant of compassionate appointment wherein she was asked to submit succession certificate and when she filed the succession certificate, her application was rejected branding the application as time-barred.
2. The petitioner herein, being the widow of deceased Government servant, calls in question the legality, validity and correctness of the order impugned dated 30/05/2015 (Annexure P-1) by which her application for grant of compassionate appointment has been rejected by respondent No. 3 holding that her application was beyond the period of limitation of three years as prescribed by respondent No. 3/State in its Circular.

3. Petitioner's husband was a Police Constable and at the relevant point of time, he was posted at Police Station Mardapal, Kondagaon wherein an anti-naxal programme was constituted namely 'craque section' and petitioner's husband was a part of that programme. On 28/05/2007, petitioner's husband with 11 other constables went to the place Puspal where about 250-300 naxalites attacked on them by firing and by explosion of bombs due to which 9 constables died and petitioner's husband received bullet injuries in his right hand. He was taken to the local hospital and thereafter he was referred to M.M.I. Hospital, Raipur where his ring finger was amputated and on 16/06/2007, he was discharged from the hospital. But ultimately on 05/04/2008, petitioner's husband died due to the serious injuries caused to him in the naxalite attack.

4. Petitioner made an application before respondent No. 4 for grant of compassionate appointment on 07/05/2008 wherein respondent No. 4 directed the petitioner to file succession certificate to demonstrate that she is the legally wedded wife of the deceased Government servant since their

marriage was solemnized on 10/03/2008 and her husband had died on 05/04/2008 in less than a month. Thereafter, though with a little delay, petitioner applied for succession certificate which was granted by the competent Court on 08/03/2013 (Annexure P/5) and along with the said certificate, petitioner again applied for grant of compassionate appointment on 11/03/2013, but ultimately by the impugned order dated 30/05/2015 (Annexure P-1), her application stood rejected on the ground of delay of 7 years holding that application for compassionate appointment ought to have been filed by the petitioner within three years from the date of death of her husband/Government servant.

5. Return has been filed by the State stating that succession certificate was rightly called for by respondent No. 4 as there was dispute with regard to marital status of the petitioner with that of the deceased as their marriage is said to have solemnized on 10/03/2008 and thereafter, petitioner's husband died on 05/04/2008 within less than a month and petitioner's application for grant of compassionate appointment has also rightly been rejected because it was filed with

a delay of 7 years whereas as per the Circular dated 10/06/2003, the said application ought to have been filed within three years from the date of death of the deceased/petitioner's husband.

6. Ms. Meena Shastri, learned counsel for the petitioner, would submit that respondent No. 3 is absolutely unjustified in dismissing petitioner's application holding that she is not entitled for grant of compassionate appointment on the ground of delay of 7 years as the delay was not on the part of the petitioner rather it was caused because of obtaining the succession certificate which was asked from her by respondent No. 4, as such, the delay is not deliberately or intentionally caused by the petitioner and her application could not have been rejected. Therefore, the impugned order deserves to be quashed.

7. Mr. Animesh Tiwari, learned Deputy Advocate General for respondents/State, would support the impugned order and submit that as per the Circular dated 10/06/2003, the period of limitation for filing application for compassionate appointment is three years from the date of death of the deceased/Government

servant and petitioner's application has rightly been rejected as it was filed after 7 years from the death of her husband, as such, the instant petition deserves to be dismissed.

8. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

9. It is not in dispute that petitioner's husband died in harness on 05/04/2008 and thereafter, on 07/05/2008, petitioner moved an application well within time for grant of compassionate appointment, but respondent No. 4 directed the petitioner to submit succession certificate to demonstrate that she is the legally wedded wife of the deceased. She applied for the succession certificate and it was ultimately granted to her on 08/03/2013. Immediately thereafter, petitioner again moved the application for grant of compassionate appointment along with the succession certificate on 11/03/2013, but now it has been rejected vide impugned order on the ground of delay of 7 years in filing the said application.

10. The fact remains that petitioner's husband died on 05/04/2008 and she promptly applied for compassionate appointment on 07/05/2008 which is well within the period of three years prescribed in the Circular dated 10/06/2003 applicable for such appointment but it was respondent No. 4 who asked for succession certificate from the petitioner to demonstrate that she is the legally wedded wife of the deceased/Government servant as their marriage was solemnized on 10/03/2008 and her husband died shortly thereafter on 05/04/2008. As directed by respondent No. 4, petitioner applied for succession certificate before the Succession Court under the provisions contained under Section 372 of Indian Succession Act, 1925 though with little delay on 26/02/2013 and it was granted to her on 26/02/2013 and the certificate was issued on 08/03/2013 (Annexure P/5). Immediately thereafter she moved the application for grant of compassionate appointment along with the succession certificate on 11/03/2013 but it stood rejected on the ground of delay.

11. Now the question would be whether the State authorities are justified in rejecting petitioner's application as time-barred ?
12. It is well-settled law that rules of limitation are not meant to destroy the rights of the parties rather they are meant to see that the parties seek their remedy right in time.
13. In the matter of Popat and Kotecha Property v. State Bank of India Staff Association¹, Their Lordships of the Supreme Court have held as under :-

"9. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So, a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae ut sit finis litium* (it is for the general welfare that a period be put to litigation). The idea is that every legal remedy must be kept alive for legislatively fixed period of time.

¹ 2005 (7) SCC 510

(See *N. Balakrishnan v. M. Krishnamurthy*²)."

14. In this connection, reference may be made to the judgment of the Supreme Court in the matter of **Susma Gosain v. Union of India**³ in which Their Lordships have clearly directed that in all the claims for appointment on compassionate grounds, there should not be any delay in appointment and it is improper to keep such a case pending for years. It was held as under :-

"9. We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread-earner in the family. Such appointment should, therefore be provided to redeem the family in distress. It is improper to keep such case pending for years."

15. Reverting to the facts of the present case in light of principle of law laid down by the Supreme Court in the aforesaid case, it is quite vivid that petitioner applied for grant of compassionate appointment right on time but respondent No. 4 directed her to file succession certificate in order to get the benefits including dues of her deceased husband for which

² (1998) 7 SCC 123

³ (1989) 4 SCC 408

she applied though with some delay but it was granted to her on 08/03/2013 and immediately thereafter on 11/03/2013, she produced the succession certificate along with the application for compassionate appointment, as such, the delay that occurred in obtaining the succession certificate has to be excluded while computing the period of limitation and if that period is excluded from 07/05/2008 to 11/03/2013 i.e. the date on which petitioner initially filed the application for compassionate appointment and date on which she was granted the succession certificate, petitioner's application would fall well within the period of limitation of three years as prescribed in the Circular dated 10/06/2003. Therefore, respondent No. 4/competent authority ought to have considered that the time spent in complying his direction and obtaining succession certificate should be excluded while computing the period of three years, particularly when petitioner is a widow whose husband died due to naxalite attack and more particularly when petitioner's marriage was solemnized with the deceased/Government servant on 10/03/2008 and shortly thereafter her

husband died on 05/04/2008. The delay (if any) caused by the petitioner in filing the application cannot be said to be caused deliberately or intentionally, as such, the delay from 07/05/2008 upto 08/03/2013 which is time spent in obtaining succession certificate deserves to be excluded while computing the period of limitation of three years otherwise it will give a ground to the Government authority to delay the consideration of application for compassionate appointment seeking succession certificate and then to reject the application holding that the application has not been filed within the period of three years as indicated in the Government Circular and the legitimate right/claim of the deserving dependant of the deceased Government servant would extinguish.

16. Thus the action of respondent authorities in firstly asking for succession certificate from the petitioner in the application for compassionate appointment which was filed by her right in time and then after obtaining the said certificate, which admittedly took time, rejecting petitioner's application for compassionate appointment branding the same as

time-barred, as such, such an act is patently arbitrary and demonstrates lack of responsibility and sensitivity towards the petitioner who lost her husband within one month of her marriage while fighting with the naxalites.

17. As a fallout and consequence of the aforesaid legal discussion, the impugned order dated 30/05/2015 (Annexure P-1) passed by respondent No. 3 rejecting petitioner's application for grant of compassionate appointment is hereby quashed and matter is remitted to respondent No. 4/competent authority for consideration of petitioner's case for compassionate appointment on merits within 30 days from the date of receipt of a copy of this order.
18. With the aforesaid direction, this writ petition stands disposed of. No cost(s).
19. Before parting with the record, attention of the State Government is invited towards paragraph 9 of the judgment rendered by the Supreme Court in the matter of Susma Gosain (supra) as quoted herein-above (paragraph 14) to consider the cases of compassionate appointment promptly. I hope and trust that the State Government will

take effective steps to consider and dispose of the application for compassionate appointment promptly in future.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet