

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 359 of 2021**

1. Ku. Tripti Daya, D/o Late Shri Praveen Kumar Daya, aged about 23 years, Occupation Student,
 2. Smt. Tabitha Daya, Wd/o Late Praveen Kumar Daya, aged about 63 years, Occupation Ex. Teacher.
- Both are R/o Sirgitti Govind Nagar, Row No. 4, Qr. No. 10, Bilaspur, District Bilaspur (C.G.)

---- Appellants**Versus**

1. The State of Chhattisgarh, through the Secretary, Tribal (ST/SC) Devlp. Department, Mahanadi Bhawan, New Raipur (C.G.)
2. The Assistant Commissioner, Tribal Development Department, Kanker, District Kanker (C.G.)
3. The Block Education Officer, Tribal Development, Antagarh, District North Bastar Kanker (C.G.)

---- Respondents

(Cause-title taken from Case Information System)

For Appellants	:	Mr. Ashok Kumar Shukla, Advocate.
For Respondents/State	:	Mr. Sudeep Agrawal, Deputy Advocate General.

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Hon'ble Shri Justice Goutam Bhaduri, Judge****Judgment on Board****Per Arup Kumar Goswami, Chief Justice****16.11.2021**

Heard Mr. Ashok Kumar Shukla, learned counsel for the appellants. Also heard Mr. Sudeep Agrawal, learned Deputy Advocate General appearing for State / respondents.

2. This writ appeal is presented against an order dated 08.09.2021 passed by learned Single Judge dismissing the writ petition.

3. The father of the petitioner No. 1 and the husband of petitioner No. 2, who was working as a regular Teacher in Government School, Antagarh, District Kanker, died in harness on 30.03.2008. The petitioner No. 1 was born on 21.09.1997 and at the time of death of her father, she was about 12 years old. An application was filed on 30.10.2009 for appointment of the petitioner No. 1 on compassionate ground. It is, however, not indicated in the writ petition as to why the petitioner No. 2 did not file application for her appointment on compassionate ground.

4. The prayer for compassionate appointment in respect of petitioner No. 1 was rejected on 06.09.2014 by the Assistant Commissioner / respondent No. 2. Writ petition came to be filed praying for setting aside the order dated 06.09.2014 and for a direction to appoint the petitioner No. 1 on compassionate grounds.

5. The learned Single Judge dismissed the writ petition on the ground of belated approach by more than 7 years to this Court from the date of rejection of the prayer of petitioner No. 1 for compassionate appointment.

6. Mr. Shukla submits that the ground assigned while rejecting the application for compassionate appointment was *ex facie* erroneous in view of the fact though the application was filed within the period of 3 years from date of demise of the father of the petitioner No. 1, it was wrongly held that such application was filed beyond the prescribed period

of 3 years. He has submitted that under the extant norms of compassionate appointment, an application seeking compassionate appointment has to be filed within a period of 3 years from the date of death of the government servant which, in exceptional circumstances, can be extended upto a period of 5 years. When the very reason assigned is fallacious, it is submitted by Mr. Shukla that learned Single Judge committed an error of law in not entertaining the application and rejecting the same on the ground of belated approach to the Court.

7. Mr. Sudeep Agrawal, on the other hand, submits that the learned Single Judge has justifiably dismissed the petition on the ground of delay as after rejection of the prayer way back in the year 2014, the petitioners did not choose to approach this Court assailing such rejection within a reasonable period and approached this Court only after about 7 years and therefore, no interference with the order of learned Single Judge is called for.

8. We have considered the submissions for learned counsel for the parties and have perused the materials on record.

9. It well-settled that appointment on a compassionate ground is not a source of recruitment and that is an exception to the general rule that recruitment to public services should be on the basis of merit by an open invitation providing equal opportunity to all the eligible persons to participate in the selection process. The dependent of employees, who die in harness, do not have any special claim or right to employment, except by way of concession that may be extended by the employer under the rules by separate scheme, to enable the family of the deceased to get over the sudden family crisis.

10. In the facts of the present case, it is evident that there is a gross delay of about 7 years in approaching the Court after rejection of the case of the petitioners for compassionate appointment, and it is in that circumstance that the learned Single Judge has declined to exercise discretion to entertain the writ petition. We are of the opinion that present is not a case that warrants our interference with the order of the learned Single Judge.

11. Taking that view, finding no merit, the writ appeal is dismissed. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge