

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.6229 of 2021**

- Hari Prasad Yadav S/o Late Shri Sukhram Yadav, Aged About 31 Years
R/o. Village Bhaisma, Tehsil Korba, District Korba (Chhattisgarh),
District : Korba, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Chhattisgarh, Through Secretary,
Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Naya
Raipur, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. Directorate, Higher Education Department, Atal Nagar, Naya Raipur,
District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Commissioner, Higher Education Department, Indrawati Bhawan, Atal
Nagar, Naya Raipur, District Raipur Chhattisgarh, District : Raipur,
Chhattisgarh
4. Government College Bhaisma, Through Its Principal, Bhaisma, District
Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondents

For Petitioner:	Shri Rishi Sahu, Advocate
For State/Respondents:	Shri Lalit Jangde, Dy.Govt. Advocate.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**Order On Board****11/11/2021**

1. By way of this petition, the petitioner is questioning the legality and propriety of the order/letter dated 10-08-2021 (Annexure P-3) issued from the office of Commissioner, Department of Higher Education, whereby the application filed by the petitioner seeking appointment on compassionate ground owing to the sad demise of his father, namely, Sukhi Ram Yadav, has been rejected.
2. From perusal of the record, it appears that the father of the petitioner namely, Sukhi Ram Yadav, who was working as Peon in the office of respondent No.4-Government College, Bhaisma, died in harness on 08-09-2020 and immediately after the sad demise of father, the petitioner has moved an application on 23-10-2020(Annexure P-1) seeking compassionate

appointment. According to the petitioner, since he and other family members were completely dependent upon his father, therefore, he is entitled to be appointed on compassionate ground. However, the said application has been rejected by the concerned authority, while referring to Clause 6-A of the Circulars dated 14-06-2013 and 23-02-2019, whereby it has been provided that if one of the members of the deceased employee is in government job, then, in the said condition, the other family members would not be entitled to be appointed on compassionate ground. The claim has, thus, been rejected merely by referring to the said clause. The order impugned has been questioned by the petitioner mainly on the ground that it has been passed without considering his dependency upon the father. It is, therefore, contended by Shri Sahu, learned counsel appearing for the Petitioner that the order impugned deserves to be set aside and, in support, has placed his reliance upon the decision rendered by this Court in the matter of **Sanad Kumar Shyamale Vs. State of Chhattisgarh & Others** decided on 09-02-2021 in **WPS No.407/2021**.

3. On the other hand, Shri Jangde, learned State counsel, while supporting the order impugned, submits that according to the aforesaid circular, particularly in view of Clause 6-A, the claim of the petitioner has rightly been refused and therefore, the order impugned, does not require to be interfered.

4. I have heard, learned counsel for the parties and perused the entire papers annexed with this petition carefully.

5. From perusal of the record, it appears that the petitioner's father namely Sukhi Ram Yadav was performing his duties on the post of Peon in the office of respondent No.4-Government College, Bhaisma and during the course of his employment, he died on 08-09-2020. It appears further that immediately after the sad demise of father, the petitioner has moved an application on

23-10-2020, but the same has, however, been rejected while referring to the aforesaid clause of the circulars as mentioned hereinabove. However, no inquiry with regard to the dependency of the petitioner as to whether he was dependent upon his father or not, was held prior to passing of the order impugned dated 10-08-2021 (Annexure P-3).

6. At this juncture, it would be relevant to take note of a recent judgment passed by this Court in **WPS No.1025/2020 (Smt. Nandini Pradhan and Others Vs. State of Chhattisgarh & Others)**, which was allowed by this Court on 18.02.2020, wherein the Court has relied upon the judgment passed on an earlier occasion in the case of Smt. Sulochana Netam Vs. State of Chhattisgarh & Others (supra). In the said matter, this Court had allowed the said Writ Petition and set aside the earlier order passed by the authorities and had remitted the matter back for a fresh consideration of the claim of the Petitioner after due verification of dependency aspect. It is relevant to note paragraph 9 of the said judgment Sulochana (supra) which reads 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.”

7. While relying upon the aforesaid principle laid down in the aforesaid judgment, this Court in the matter of “**Sanad Kumar Shyamale Vs. State of Chhattisgarh and others**” passed on 09.02.2021 in **WPS No. 407 of 2021** has observed at paragraph 10 in this regard which reads as under:-

“10. This Court is of the firm view that the intention by which the said clause inserted by the State Government in the policy of compassionate appointment was to ensure that the compassionate appointment can be given to a person whose is more needy. It never meant that in the event of there being somebody in the government employment in the family of deceased employee, the claim for compassionate appointment would stand rejected only on that ground. Moreover, in the opinion of this Court the possibility cannot be ruled out of the so called earning members and the so called persons who are in government employment from among the family members of deceased employee having their own family liabilities and in some cases are far away from the place of deceased employee and staying along with their own family. The rejection of the claim for compassionate appointment to a person who was directly dependant upon the earnings of deceased employee would be arbitrary and would also be in contravention of the intentions of framing the scheme for compassionate appointment.”

8. The aforesaid principles of law laid down in the case of ***Sulochana*** (supra) have been followed by this Court in a large number of cases and that is the consistent stand of the various Benches of this Court in the past many years now. This Court is also in the given circumstances inclined to hold that the rejection of the application of Petitioner for compassionate appointment by a single line order only on the basis of the clause mentioned in the scheme or policy of compassionate appointment of the State Government would not be sustainable. There ought to have been some sort of preliminary enquiry so far as dependency part is concerned conducted by the Respondents prior to reaching to a conclusion.

9. Consequently, the impugned order dated 10-08-2021(Annexure P3) deserves to be and is hereby set aside. The concerned respondent authority is directed to consider the claim of the petitioner afresh taking into consideration the observations made by this Court in the preceding paragraphs and take a fresh decision at the earliest within an outer limit of 90 days from the date of receipt of a copy of this order.

10. With the aforesaid observation, the writ petition is allowed and disposed of accordingly.

SD/-
(Sanjay S. Agrawal)
JUDGE