

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5949 of 2021**

- Annu Pandey D/o Late Ashutosh Pandey Aged About 36 Years R/o Ihdp Awas, Block -A, House No. 08, Near Bagdai Mandir, Khamtarai, Bilaspur District Bilaspur Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
2. Senior Superintendent Of Police, Bilaspur, District Bilaspur Chhattisgarh. **---- Respondents**

For Petitioner:	: Shri Ajay Shrivastava, Adv.
For the State/Respondents:	: Shri Neeraj Pradhan, P.L.

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

27.10.2021

1. By way of this petition, the petitioner is questioning the legality and propriety of the order dated 23.09.2021 (Annexure P-1) passed by Respondent No.2-Senior Superintendent of Police, Bilaspur, District Bilaspur, Chhattisgarh, whereby the application filed by the petitioner seeking appointment on compassionate ground owing to the sad demise of her father-in-law, namely, Ram Sanehi Pandey has been rejected.
2. From perusal of the record, it appears that the father in law of the petitioner namely, Shri Ram Sanehi Pandey, who was working as constable at Police Line, Bilaspur died in harness on 15.09.2020. Said Ram Sanehi Pandey had two sons namely, Abhishek Pandey and Ashutosh Pandey but both have also died pre-deceased to him. It appears further that the younger son of deceased Ram Sanehi Pandey,

namely, Abhishek Pandey was posted as constable and died on 18.06.2019 and thereafter his wife Smt. Mistri Pandey was given appointment on compassionate ground on 30.07.2020 and, according to the Petitioner, she is living separately and not assisting the family of the petitioner. Further contention of the petitioner is that her husband was pre-deceased to her father-in-law namely, Ram Sanahi Pandey and, therefore, immediately upon the death of her father in law, she applied for her appointment on compassionate ground on 12.07.2021, but was, however, rejected by the concerned Authority on the ground that the widow of the petitioner's husband's brother namely Smt. Mistri Pandey was already in government job and as per the policy of compassionate appointment, the claim for compassionate appointment would not be considered if there is already somebody who is in government employment in the family of the claimants. While observing as such the petitioner's application seeking her appointment on compassionate ground has been refused which has been questioned herein mainly on the ground that the order impugned has been passed without considering her dependency upon her father-in-law, therefore, it is contended by Shri Shrivastava, learned counsel appearing for the Petitioner that the order impugned deserves to be set aside. In support, he placed his reliance upon the decision rendered by this Court in the matter of Sanath Kumar Shyamale Vs. State of Chhattisgarh and others, passed on 09.02.2021 in WPS No. 407 of 2021.

3. On the other hand, Shri Pradhan, while supporting the order impugned submits that since one of the members, namely, Smt. Mistri, widow of petitioner's husband's brother was already in government job, the order

impugned, therefore, does not require to be interfered, as per the Government Policy.

4. I have heard, learned counsel for the parties and perused the entire papers annexed with this petition carefully.
5. It is true that Smt. Mistri Pandey who was the widow of her husband's brother namely Abhishek Pandey was given an appointment on compassionate ground on 30.07.2020 on account of the death of her husband who was also performing his duties as a constable. It appears further that both sons of Ram Sanahi Pandey, the father-in-law of the petitioner has died and according to the averments made in the petition, said Smt. Mistri Pandey started living separately after obtaining her compassionate appointment without providing any financial support to the Petitioner.
6. It thus, appears that after the death of her husband, the petitioner was completely dependent upon her father-in-law namely, Ram Sanahi Pandey and upon the death of him, application as made by the petitioner seeking of her appointment on compassionate ground has been refused merely on the ground that one of the family members is in Government Employment, however, no inquiry with regard to the dependency of the petitioner as to whether she was dependant upon her father-in-law upon the sad demise of her husband, who was pre-deceased to his father, was considered prior to passing of the said order impugned, dated 23.09.2021.
7. At this juncture, it would be relevant to take note of a recent judgment passed by this Court in WPS No. 1025/2020 (Nandini Pradhan 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 in WPS No. 2728/2017 decided on 23.11.2017. 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 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.”

8. 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.”

9. The aforesaid principles of law laid 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 branches 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.

10. Consequently, the impugned order dated 23.09.2021 (Annexure P-1) deserves to be and is hereby set aside. The Respondent No.2-Senior Superintendent of Police Bilaspur 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 copy of this order.
11. With the aforesaid observation, the writ petition is allowed and disposed of accordingly.

Sd/-

(Sanjay S. Agrawal)
JUDGE