

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6092 of 2021**

- Amit Kumar Markam S/o Late Shri Shiv Kumar Markam Aged About 34 Years R/o Village And Post Sondh, Tehsil Berla, District Bemetara Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. District Education Officer, Bemetara, District-Bemetara (C.G.) **---- Respondents**

For Petitioner:	: Ms. Prakritee Jain, Adv.
For the State/Respondents:	: Shri Amit Buxy, P.L. appears on advance copy.

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

10.11.2021

1. By way of this petition, the petitioner is questioning the legality and propriety of the order dated 08.10.2021 passed by District Education Officer, Bemetara District-Bemetara, whereby the application filed by the petitioner seeking compassionate appointment owing to the sad demise of his father, namely, Shiv Kumar Markam, has been rejected.
2. From perusal of the record, it appears that the father of the petitioner namely, Shiv Kumar Markam was working as Head Master in Government Primary School, Bhatasohri, Block Development Berela District-Bemetara and he died during the course of his employment on 26.04.2021. It appears that said Shiv Kumar Markam has 3 sons, namely, Sandeep Kumar Markam, Amit Kumar Markam (the present petitioner) and Manish Kumar Markam and, one of the brothers, namely, Sandeep Kumar Markam is in government job and that was the

reason why the concerned Authority vide its order impugned has rejected the application whereby the petitioner had sought for his appointment on the ground of compassionate appointment. According to the learned counsel for the Petitioner, although the said brother of the petitioner is in government job but since he is living separately without providing any financial help to the petitioner and therefore, the said application as rejected on 08.10.2021 without considering the dependency part of the Petitioner, is liable to be quashed. In support, counsel has placed the reliance upon the decision rendered by this Court in the matter of Smt. Sulochana Netam Vs. State of Chhattisgarh and others passed in WPS 2728 of 2017, which was decided on 23.11.2017.

3. On the other hand, Shri Buxy appearing for the State/Respondents, while supporting the order impugned, submits that since one of the family members, namely, Sandeep Kumar Markam is in government job, and therefore, the order impugned does not require to be interfered as per the Government Policy dated 14.06.2013.
4. I have heard learned counsel for the parties and perused the entire papers annexed with this petition carefully.
5. It is true that one of the family members of the petitioner, namely, Sandeep Kumar Markam is in government job but as per the averments made in the petition, it appears that he is living separately since 2010 without providing any financial help to the family members of the petitioner. It thus, appears from the averments made in the petition that after the death of father, said brother of the petitioner, namely, Sandeep Kumar Markam was living separately since 2010 without providing any

financial help to the members of the petitioner's family and without considering as to whether said brother was providing any financial help to the petitioner and/or whether petitioner was completely dependent upon his father, was not taken into consideration, prior to passing of the order impugned.

6. 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.”

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 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.
9. Consequently, the impugned order dated 08.10.2021 (Annexure P-1) passed by District Education Officer, Bemetara District-Bemetara deserves to be and is hereby set aside. The Respondent No.2-District Education Officer, Bemetara, District-Bemetara 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.
10. With the aforesaid observation, the writ petition is allowed and disposed of accordingly.

Sd/-

(Sanjay S. Agrawal)
JUDGE