

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6541 of 2021**

•Jyoti Sahu, Daughter Of Late Shri Ram Kumar Sahu Aged About 23 Years, Resident Of Ward No. 8, Bajar Para, Lormi, Tahsil Lormi, District Mungeli 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, Advocate.
For State/Respondents:	Shri Lalit Jangde, Dy.Govt. Advocate on advance copy.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**Order On Board****02/12/2021**

1. By way of this petition, the Petitioner is questioning the legality and propriety of the order/letter dated 15.09.2021 (Annexure P-1) passed by respondent No.2 – Senior Superintendent of Police, whereby the application filed by the Petitioner seeking appointment on compassionate ground owing to the sad demise of her father, namely, Ram Kumar Sahu, has been rejected.

2. From perusal of the record, it appears that the father of the Petitioner namely, Ram Kumar Sahu, who was working as Head Constable – 1083 at Police Station Civil Lines, Bilaspur, died in harness on 11.04.2021 due to Covid-19 pandemic and immediately after the sad demise of father, the Petitioner has moved an application on 12.07.2021 (Annexure P-2) seeking compassionate appointment. According to the petitioner, since she and other

family members were completely dependent upon her father, therefore, she 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 circular dated 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 and since the brother of the Petitioner, namely, Vikas Sahu was found to be in Government job, the claim has, thus, been rejected.

3. The aforesaid order/letter impugned has been questioned by the petitioner mainly on the ground that it has been passed without considering her dependency upon the father. According to the learned counsel for the Petitioner, although the said brother of the Petitioner is in job, but since he is living separately after his marriage without providing any financial help to the family members of the Petitioner, therefore, her claim ought not to have been refused. It is, therefore, contended by Shri Shrivastava, learned counsel appearing for the Petitioner that the order/letter impugned deserves to be set aside and, in support, he 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**.

4. On the other hand, Shri Jangde, learned State counsel, while supporting the order/letter 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/letter impugned, does not require to be interfered.

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

6. From perusal of the record, it appears that the petitioner's father, namely, Ram Kumar Sahu, who was performing his duties as Head Constable in Police Station, Civil Lines, Bilaspur, has died on 11.04.2021 during the course of his employment, due to Covid-19 pandemic. It appears further that immediately after the sad demise of father, the petitioner has moved an application on 12.07.2021 (Annexure P/2), but the same has, however, been rejected while referring to the aforesaid clause of the circular as mentioned herein above as the petitioner's brother, namely, Vikas Sahu was found to be in Government job. It is true that the Petitioner's said brother is in Government job, but no inquiry with regard to the dependency of the petitioner as to whether she was dependent upon her father or not, was held prior to passing of the order/letter impugned dated 15.09.2021 (Annexure P-1).

7. 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, decided on 23.11.2017 in **WP(S) No.2728 of 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 the Petitioner after due verification of dependency aspect. It is relevant to note paragraph 9 of the said judgment of 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**” (supra), 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 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.

10. Consequently, the impugned order/letter dated 15.09.2021 (Annexure P-1) passed by respondent No.2 – Senior Superintendent of Police, Bilaspur, 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.

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

Sd/-
(Sanjay S. Agrawal)
JUDGE