

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 8263 of 2019**

Sunil Kumar Dhruw S/o Late Shri Bhagwan Singh Dhruw Aged About 35 Years
R/o Village Mokha, Post Silauti, Tahsil And District Dhamtari Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat And Social Welfare Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur Chhattisgarh
2. Collector Dhamtari District Dhamtari Chhattisgarh
3. District Education Officer Dhamtari, District Dhamtari Chhattisgarh
4. Chief Executive Officer Zila Panchayat Dhamtari, District Dhamtari Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vinod Tekam, Advocate
For State	:	Ms. Akansha Jain, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/08/2021**

1. The present writ petition has been filed aggrieved of the order of District Education Officer dated 03.06.2019 whereby the authorities have rejected the application for compassionate appointment of the petitioner on the ground of limitation.
2. The facts of the case in brief is that the father of the petitioner was working under the erstwhile State of Madhya Pradesh as an Assistant Teacher, who died in harness on 12.05.1987. At the time of death of the deceased the petitioner is said to be around 2-3 years and was the sole child of the deceased. On the date of death of deceased he was survived by his widow and petitioner.

3. It appears that immediately after the death of the deceased the widow has not claimed for compassionate appointment for reasons best known. It is for the first time that petitioner moved an application for compassionate appointment on 02.09.2013 which after much persuasion with the respondents finally was rejected vide impugned order dated 03.06.2019 passed by the respondent no.3.
4. Prima facie, this Court is of the firm view that writ petition suffers from inordinate delay and latches. The death of the deceased in the instant case took place on 12.05.1987. The petitioner is said to be around 2-3 years of age at that point of time. The petitioner accordingly attained the age of majority somewhere in the year 2002. Even then the petitioner for the first time applied for compassionate appointment only on 02.09.2013 i.e. after a period of more than 26 years from the time of death.
5. Undisputedly, 26 years is a very long time for claiming compassionate appointment. The compassionate appointment is provided by the employer to ensure that the family of the deceased do not face a situation of penury on the death of the deceased. The object and reasons behind for grant of compassionate appointment is to tide away immediate financial crisis that the family of the deceased employee faces. It is for this reason that claim for compassionate appointment is expected to be raised and settled promptly on the death of the deceased. In the instant case the petitioner does not seem to have approached this Court or the authorities concerned promptly and finally when it was raised the claim has been rejected on the ground of delay.
6. This Court does not find any strong case made out by the petitioner to hold that action on the part of the respondents in any manner to be arbitrary or mala fide.
7. The law so far as compassionate appointment is concerned is by now well settled wherein the Supreme Court has repeatedly held that compassionate

appointment should not be considered or converted into another source of recruitment or an alternative source of appointment. It is only a facility provided to provide succor to the family of the deceased employee.

8. As regards the question of delay and laches in approaching the Writ Court particularly in the field of compassionate appointment it has been held as under :-

“It would be relevant at this juncture to refer to a recent decision of the Hon'ble Supreme Court in the case of **Chief Commissioner, Central Excise and Customs, Lucknow and other v. Prabhat Singh reported in (2012) 13 SCC 412** where in paragraph-8 the Supreme Court has held as under:

“18. The very object of making provision for appointment on compassionate grounds, is to provide succour to a family dependent on a government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole breadwinner. Delay in seeking such a claim is an antithesis for the purpose for which compassionate appointment was conceived. Delay in raising such a claim is contradictory to the object sought to be achieved.”

9. Further in Paragraph-19 also the Supreme Court in very categorical terms while restricting the scope of interference in a petition for compassionate appointment has held as under:

“19. The courts and tribunals should not fall prey to any sympathy syndrome, so as to issue directions for compassionate appointments, without reference to the prescribed norms. The courts are not supposed to carry Santa Claus's big bag on Christmas eve to disburse the gift of compassionate appointment to all those who seek a court's intervention. The courts and tribunals must understand that every such act of sympathy, compassion and discretion wherein directions are issued for appointment on compassionate grounds

could deprive a really needy family requiring financial support, and thereby, push into penury a truly indigent, destitute and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion”.

10. For the aforesaid legal position as it stands and also the dates provided in the preceding paragraphs, this Court is of the opinion that the impugned order in the instant case does not warrant any interference and the writ petition therefore fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit