

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 7512 of 2018**

1. Set Kunwar Anant W/o Late Shri Shuklal Anant Aged About 53 Years R/o Mitthumuda, Guru Ghasidas Pole, Ward No. 37, Rajiv Gandhi Nagar Raigarh, Tahsil P. S. And District Raigarh, Chhattisgarh.
 2. Lom Harsh Anant, S/o. Late Shri Shuklal Anant, Aged About 23 Years R/o. Mitthumuda, Guru Ghasidas Pole, Ward No. 37, Rajiv Gandhi Nagar Raigarh, Tahsil P.S. And District Raigarh Chhattisgarh.
- Petitioners**

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home/police, Secretariat, Mahanadi Bhawan, P. S. And Post Rakhi, Atal Nagar Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Director General Of Police (DGP), Police Headquarter, Near Mahanadi Bhawan, Mantralay, P.S. And Post Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Inspector General Of Police (I.G.P.) Office Of Inspector General Of Police (I.G.P.), Behind Nagar Nigam Office, Police Station Civil Line, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Superintendent Of Police (S.P.), Office Of Superintendent Of Police (S.P.) Janjgir Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate.
For State	:	Mr. Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/02/2021**

1. The impugned order in the present writ petition is to Annexure P/5 dated 07.02.2018 whereby the claim of the petitioners for compassionate appointment has been rejected by the respondents.
2. The facts of case are that the husband of the petitioner No. 1 and father of the petitioner No. 2 was working as an Inspector under the

respondents and who died in harness on 05.01.2018. Immediately on the death of the deceased employee, the petitioner No. 2 the son moved an application for compassionate appointment before the respondent No. 4. On due consideration of the same, the respondents rejected the claim application of the petitioner vide impugned order Annexure P/5 dated 07.08.2018. The rejection was on the ground that the brother of the petitioner No. 2 and son of the Petitioner No. 1 was already in Government employment. That under the Policy for compassionate appointment in the event if there is a family member already in Govt. employment they would be dis-entitled for compassionate appointment.

3. The contention of the petitioners is that it is a case where the deceased employee left behind the petitioner No. 1-the widow and the petitioner No. 2 the son and there is one elder son in the family who is already in Government employment. According to the petitioner no.1, her eldest son in the family is already married and he has his own family and children to take care of. As such the petitioners herein were totally dependent upon the income from the deceased employee. That the said elder son of the petitioner No. 1 in government employment was not providing any financial assistance and aid to the petitioners so far as their sustenance is concerned.
4. It is the further contention of the learned counsel for the petitioners that before rejecting the application of the petitioners, the respondents ought to have considered the dependency of the petitioners upon the deceased employee and also whether the said

brother of the petitioner No. 2 and son of the petitioner No. 1 was providing any financial assistance to the petitioners for their sustenance or not. According to the petitioners, they have been sustaining themselves purely on the monetary benefits that the petitioners received on the death of the deceased employee and in due course of time, they are facing great hard-ship in sustaining themselves.

5. Counsel for the petitioners relied upon the various judgments rendered by the Division Bench of this Court as also by the Single Bench of this Court in settling the issue as regards the condition in scheme for compassionate appointment where the claim of an employee is rejected on the ground of another family member being in Government employment. Counsel for the petitioner relied upon the judgment in the case of Smt. Sulochana Netam Vs. State of Chhattisgarh and Ors., passed in WP(S) No. 2728/2017 decided on 23.11.2017 and also in the case of Smt. Nandani Pradhan Vs. State of Chhattisgarh and Ors., passed in WP(S) No. 1025/2020 decided on 18.02.2020 in this regard.
6. The State Counsel on the other hand opposing the petition submits that it is a case where it has been reflected that one of the legal heirs of the deceased employee that is the eldest son of the deceased employee who is also the son of the petitioner No. 1 and the brother of the Petitioner No. 2 is in Govt. employment and is posted at Surguja as Nayab Tahsildar. Therefore, under the scheme for compassionate appointment, the petitioners become ineligible for the said consideration.

7. Having heard the contentions put forth on either side and on perusal of the records, it would be relevant at this juncture to take note of the judgment of this Court Hon'ble Court in the case of Smt. Sulochana Netam vs. State of Chhattisgarh (supra) wherein in paragraph-9 which has been held-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. 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. The said judgment of this High Court in the case of Smt. Sulochana Netam vs. State of Chhattisgarh (supra) has been followed by this Court in series of subsequent litigation of similar nature like WP(S) 407/2021 decided on 09.02.2021 and WP(S) No. 544/2021 decided on 15.02.2021 also in the case of Smt. Nandani Pradhan (supra) wherein all these judgments, this Court has been consistence in its view that before rejecting an application for compassionate appointment on the ground of another family being in Government employment the aspect of dependency has to be inquired into. In the event if a member who is said to be in Government employment has his own family, wife and children to take care of

the said family can not be clubbed with dependents of the deceased who were totally depended upon the income and earning of the deceased employee. This aspect seems to have not been inquired into by the respondents while passing the impugned order Annexure P/5 rejecting the claim of the petitioners. In light of the series of decisions rendered by the High Court, the impugned order in the instant writ petition also deserves to be set aside/quashed and the matter needs to be sent back to the Department for a fresh consideration of the claim for grant of compassionate appointment.

9. Under the said circumstances, the impugned order Annexure P/5 dated 07.02.2018 passed by the respondent No. 4 stands set aside/ quashed and the respondent No. 4 is in-turn directed to pass a fresh order in accordance with observations in the preceding paragraphs at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.
10. The writ petition accordingly stands disposed of

Sd/-

(P. Sam Koshy)
Judge