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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPS No. 6736 of 2026**

Navindra Kumar Hatkeshwar S/o Late Dayaram Hatkeshwar Aged About 41 Years R/o House No. 1167/3, North Side Of Playground Bapu Upnagar, Bilaspur, District- Bilaspur (C.G.)

**Petitioner(s)**

**versus**

**1 -** State Of Chhattisgarh Through The Secretary, Urban Administration And Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

**2 -** Director, Directorate Of Urban Administration And Development, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

**3 -** Commissioner, Municipal Corporation, Bilaspur, District- Bilaspur (C.G.)

**4 -** Additional Commissioner Municipal Corporation, Bilaspur, District- Bilaspur (C.G.)

**5 -** Health Officer, Municipal Corporation, Bilaspur, District- Bilaspur (C.G.)

**Respondent(s)**

**(Cause-title taken from CIS)**

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| For Petitioner(s) | : | Mr. Anukul Biswas, Advocate |
| For Respondent(s) | : | Mr. S.S. Baghel, GA |
| For Resp No. 3 to 5 | : | Mr. A.S. Kachhawaha, Advocate |

**(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)**

**Order on Board**

**03/11/2026**

1. The instant writ petition has been filed under Article 226 of the Constitution of India, assailing the rejection order dated 31.08.2026

(Annexure P/1), passed by respondent No.4, whereby the petitioner's claim for compassionate appointment, consequent upon the death of his mother, late Smt. Nirmala Bai, who died in harness on 24.07.2025 while serving as a Sanitation Worker in the Municipal Corporation, Bilaspur, has been rejected by invoking Clause 06(A) of the Consolidated Instructions dated 14.06.2013, on the ground that two of his brothers are employed in Government service. The petitioner seeks quashing of the said order and a direction to the respondents to reconsider his claim by taking into account his alleged dependency upon the deceased employee and the fact that his employed brothers have been residing separately with their respective families.

2. (a) Learned counsel for the petitioner submits that the petitioner's mother, who was working as a Sanitation Worker in the Municipal Corporation, Bilaspur, died in harness on 24.07.2025. Thereafter, the petitioner submitted an application seeking compassionate appointment on 10.09.2025. However, his claim has been rejected by the impugned order dated 31.08.2026, passed by respondent No.4, on the ground that two of his brothers are already employed in Government service.

(b) Learned counsel for the petitioner would submit that the respondents have mechanically rejected the claim of the petitioner by invoking Clause 06(A) of the Consolidated Instructions, 2013, without considering the actual financial condition of the family and the circumstances prevailing at the time of death of the deceased employee. It is contended that although the petitioner's two brothers are employed in Government service, they have been residing separately with their

respective families for several years, have separate ration cards and maintain independent family establishments. It is further submitted that neither of the said brothers was dependent upon the deceased employee nor are they providing any financial assistance to the petitioner.

(c) Learned counsel for the petitioner has placed reliance upon the judgment passed by the Division Bench of this Court in the matter of ***Commissioner, Municipal Corporation, Ambikapur v. Mukund Hela, ( W.A. No. 429 of 2026) decided on 12.05.2026,*** and submits that merely because one or more members of the family are employed in Government service, the claim for compassionate appointment cannot be rejected without examining the actual financial condition and dependency of the family. It is contended that the respondents ought to have considered the separate residence and independent family status of the petitioner's brothers before rejecting his claim. On these grounds, learned counsel prays that the impugned order be quashed and the respondents be directed to reconsider the petitioner's claim for compassionate appointment.

3. Per contra, learned counsel appearing for the State, opposing the writ petition, would submit that the claim of the petitioner has rightly been rejected in view of Clause 06(A) of the Consolidated Instructions dated 14.06.2013, as two members of the petitioner's family are already in Government service. It is contended that in view of the law laid down by the Full Bench of this Court in State of Chhattisgarh v. Umesh Thakur, W.A. No. 236 of 2022, the petitioner cannot seek an enquiry into whether his brothers are financially supporting him or the family, when

the applicable policy itself places a restriction on consideration of the claim in such circumstances. Accordingly, it is prayed that the writ petition deserves to be dismissed.

4. I have heard learned counsel for the petitioner and perused the material available on record.

5. The question which arises for consideration in the present writ petition is whether, in view of the employment of two of the petitioner's brothers in Government service, the respondents were justified in rejecting his claim for compassionate appointment by invoking Clause 06(A) of the Consolidated Instructions, 2013, or whether the respondents were required to undertake a further enquiry into the actual financial dependency of the petitioner upon the deceased employee and the financial support, if any, being extended by his employed brothers.

6. At this stage, it would be apposite to refer to the law laid down by the Full Bench of this Court in ***W.A. No. 236 of 2022, State of Chhattisgarh and Others v. Umesh Thakur, decided on 21.06.2023.*** The Full Bench, while considering the question as to whether, where one of the family members of a deceased Government employee is already in Government service, another dependent member of the family can claim compassionate appointment without examining the dependency of the family upon such employed member, has categorically answered the reference against the claimant.

7. The Full Bench, after considering the earlier Division Bench decisions in ***Neeraj Kumar Uke v. State of Chhattisgarh and Others, W.A. No. 334 of 2021,*** and ***State of Chhattisgarh and Others v. Smt. Muniya***

***Mukharjee, W.A. No. 33 of 2022***, as well as the decision in ***Purendra Kumar Sinha v. State of Chhattisgarh and Others, 2022 SCC OnLine Chh 1598***, held that where the applicable policy provides that no compassionate appointment shall be granted if any member of the family of the deceased employee is already in Government service, the writ Court cannot direct the authorities to conduct an enquiry into the dependency or financial support being extended by such employed family member to the other members of the family.

8. The Full Bench, in paragraph 42 of the decision in ***Purendra Kumar Sinha (supra)***, approved the view that such an enquiry would amount to rewriting the terms of the policy governing compassionate appointment. The Full Bench, while answering the reference, ultimately held as under:

> *"When one of the family members of the deceased Government servant is already in Government service and the applicable policy bars and prohibits the consideration of other dependent of the deceased Government servant for appointment on compassionate ground, then this Court under Article 226 of the Constitution of India would not direct for holding enquiry qua dependency/financial support by one of the family members of the deceased Government servant who is already in Government service to the other family member of the deceased Government servant when a claim is made by other member of the family for compassionate appointment, as it would amount to rephrasing/rewording of the terms of the applicable scheme/policy for compassionate appointment, as such, such enquiry is totally barred."*

9. The aforesaid principle was subsequently applied by the Division Bench

of this Court in W.A. No. 236 of 2022, vide judgment dated 07.07.2023, whereby the order of the learned Single Judge directing an enquiry into whether the claimant was receiving financial support from his sister, who was employed in Government service, was set aside and the writ petition itself was dismissed. The Division Bench, after noticing the answer rendered by the Full Bench, held that no such enquiry into dependency or financial support could be undertaken contrary to the terms of the applicable policy.

10. So far as the judgment relied upon by learned counsel for the petitioner in W.A. No. 429 of 2026, decided on 12.05.2026, is concerned, this Court has carefully considered the same. In the said matter, the Division Bench examined the peculiar facts and circumstances of the case, including the financial hardship pleaded by the family, the nature of employment of the surviving mother and the plea of discriminatory treatment on the basis of alleged appointments granted to similarly situated persons. The Division Bench observed that the decision-making process could be interfered with where the same suffers from arbitrariness, non-consideration of relevant factors or mechanical exercise of discretion.

11. However, the aforesaid decision cannot be construed as laying down a general proposition that the express disqualification contained in the applicable compassionate appointment policy can be disregarded or that an enquiry into financial dependency must invariably be undertaken notwithstanding the prohibition contained therein. The law declared by the Full Bench in ***State of Chhattisgarh v. Umesh Thakur (supra)***

governs the issue where the applicable policy creates an express bar on account of a family member being in Government service. A subsequent decision of a Division Bench cannot be understood as overriding or diluting the law declared by the Full Bench. The observations in W.A. No. 429 of 2026, therefore, have to be understood in the factual context in which they were made and consistently with the binding pronouncement of the Full Bench.

12. In the present case, admittedly, the petitioner's two brothers, namely Narendra Kumar Hatkeshwar and Virendra Kumar Hatkeshwar, are employed in Government service, one in the Railways and the other in the Health Department of the Municipal Corporation, Bilaspur. The petitioner himself has disclosed these facts in the affidavit submitted before the authorities. His contention that the said brothers have been residing separately with their respective families, possess separate ration cards and do not provide any financial assistance to him, cannot furnish a ground to direct an enquiry into their financial contribution or actual dependency when the applicable policy itself provides for exclusion in the event of a family member being in Government service.

13. The mere fact that the employed brothers are residing separately or maintaining separate family establishments would not, by itself, take them outside the ambit of the expression 'family' as contemplated under the applicable scheme. The petitioner cannot seek to introduce an additional exception to Clause 06(A) of the Consolidated Instructions, 2013, by contending that the employed family members are not residing with him or are not financially supporting him. To accept such a

contention and direct an enquiry into the extent of financial assistance being provided by the employed brothers would amount to reading into the policy an exception which has not been provided by the competent authority.

14. It is no doubt true that the object of compassionate appointment is to provide immediate relief to the family of a deceased Government employee who dies in harness. However, compassionate appointment is not a matter of right, nor is it an alternative mode of recruitment. The claim has necessarily to be considered within the parameters of the policy governing such appointment. The humanitarian object underlying the scheme cannot be invoked to grant a benefit contrary to the express conditions prescribed therein.

15. In view of the categorical pronouncement of the Full Bench, this Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot direct the respondents to undertake an enquiry into the financial dependency of the petitioner upon the deceased employee or the extent of financial assistance being provided by his brothers, who are admittedly employed in Government service, when such an enquiry would run contrary to the applicable policy.

16. Consequently, this Court finds no ground to interfere with the impugned rejection order dated 31.08.2026 passed by respondent No.4.

17. The writ petition, being devoid of merit, is accordingly dismissed.

Sd/-

**(BIBHU DATTA GURU)**
**JUDGE**

**Rahul**