CGHC010369382026 2026:CGHC:45364

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6913 of 2026

Adarsh Shukla S/o Late Shri Suresh Chandra Shukla, Aged About 37 Years R/o L.I.F.-3, Block F, Parijat Colony, Near By Gajanan Mandir, Nehru Nagar Bilaspur (C.G.)

... Petitioner(s)

SHOAIB ANWAR Digitally signed by SHOAIB ANWAR Date: 2026.10.28 10:19:32 +0530

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur Atal Nagar, District Raipur (C.G.)

2 - The Commissioner, Department Of Higher Education, Directorate, Block -3, Second / Third Floor, Indravati Bhawan, Nava Raipur District Raipur (C.G.)

3 - Inquiry Committee, Through The Co-Ordinator / Joint Director, Department Of Higher Education, Directorate, Block-3, Second / Third Floor, Indravati Bhawan, Nava Raipur District Raipur (C.G.)

4 - Assistant Director, Department Of Higher Education, Directorate,

Block -3, Second / Third Floor, Indravati Bhawan, Nava Raipur, District Raipur (C.G.)

5 - Assistant Director, Department Of Higher Education Regional Office, Bilaspur Region, Government E. Raghvendra Rao, P.G. Science College Premises, Seepat Road Bilaspur District Bilaspur (C.G.)

... Respondent(s)

(Cause title taken from CIS)

For Petitioner(s)	**:**	Shri Prateek Sharma, Advocate
For Respondent(s)	**:**	Shri Ghanshyam Kashyap, Dy. Govt. Advocate

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

27.10.2026

1. By the present writ petition, the petitioner seeks quashment of the order dated 09.09.2026 Annexure P/1 passed by the respondent no. 2 whereby, the petitioner has been removed from the service.

2. Learned counsel for the petitioner would submit that while in service, the father of the petitioner namely Dr. Suresh Chandra Shukla died in harness on 16.08.2015. Thereafter the petitioner moved an application before the respondent authorities seeking grant of compassionate appointment in

lieu of death of his father. According to the petitioner along with application he submitted all the documents and the fact regarding the employment of his mother in the Higher Education Department. He further submits that the petitioner has not suppressed any material facts . On due verification of the entire material facts available before the authorities the respondent authorities issued the appointment order on compassionate ground in favour of the petitioner. Subsequently, the petitioner's services regularized on the post of Assistant Grade-III with effect from 27.10.2018. Learned counsel further submits that even by order dated 11.08.2023, he has been promoted to the post of Assistant Grade-II. He submits that all of a sudden on the basis of a pseudonymous complaint with regard to appointment of the petitioner with the allegation that he has obtained the same on the basis of false and fabricated facts and by playing a fraud notices were issued to the petitioner. After receipt of the notices the petitioner appeared and put forth his case. Learned counsel submits that the respondent authorities without considering the explanation offered by the petitioner and without following

the due process of law by the order impugned,the petitioner has been removed from the service after a period of decade.

3. On the other hand, learned State counsel submits that the petitioner was ineligible for compassionate appointment under Clause 6(A) of the circular dated 29.08.2016, as his mother was already in regular Government service when his claim was considered on 26.10.2016. It is contended that an appointment contrary to the applicable policy confers no right to continue in service and that the petitioner had undertaken to accept its cancellation if found ineligible. The impugned order is stated to be a cancellation for want of eligibility and not a penalty for misconduct; hence, Article 311(2) of the Constitution of India and Rule 14 of the applicable Rules of 1966 are not attracted. It is further submitted that the petitioner was heard twice and that length of service, regularisation, promotion or sympathy cannot override the governing policy.

4. I have heard learned counsel for the parties and perused the documents appended with the petition.

5. The question for consideration would be whether termination of the petitioner's appointment is justified?

6. The Supreme Court in the matter of ***Md. Zamil Ahmed Vs. State of Bihar & Others***[1] held that in case of compassionate appointment where the State Government has taken a conscious decision *de hors* rules to give compassionate appointment to brother of deceased government servant for the benefit of family to face the financial hardship, his appointment cannot be set aside after 15 years by holding as under:-

> "11.1 Firstly, the appellant and wife of the deceased at the time of seeking compassionate appointment did not conceal any fact and nor filed any false or incorrect document/declaration. On the other hand, both of them disclosed their true family relations and conditions prevailing in the deceased family on affidavit.
>
> 11.2 Secondly, the appellant, who is the brother of the deceased, undertook to maintain the family of the deceased in the event of his securing the compassionate appointment and he accordingly also gave such undertaking to the State.
>
> 11.3 Thirdly, there was no one in the family of the deceased to claim compassionate appointment except the appellant who, as mentioned above, was the close relative of the deceased, i.e., real younger brother and used to live with the

1 1 (2016) 12 SCC 342

deceased. otherwise eligible to claim He was such appointment being major, educated and only family male member in the family.

11.4 Fourthly, the appellant after securing the employment throughout maintained the family of the deceased in all respects for the last more than 15 years and he is continuing to do so.

12. In the light of aforementioned reasons, which rightly persuaded the State to grant compassionate appointment to the appellant, we do not find any justification on the part of the State to dig out the appellant's case after 15 years of his appointment and terminate his services on the ground that as per the State policy, the appellant did not fall within the definition of the expression "dependent of deceased" to claim compassionate appointment.

13. The fact that the appellant was younger brother of the deceased was within the knowledge of the State. Similarly, the State was aware that the brother does not fall within the definition of dependent at the relevant time and still the State authorities obtained the undertaking from the appellant that he would maintain the family of the deceased once given the appointment.

14. In our considered view, the aforesaid facts would clearly show that it was a conscious decision taken by the State for giving an appointment to the appellant for the benefit of the family members of the deceased who were facing financial hardship due to sudden demise of their bread earner. The appellant being the only close relative of the deceased could be given the appointment in the circumstances prevailing in the family. In our view, it was a right decision taken by

the State as a welfare state to help the family of the deceased at the time of need of the family.

15. In these circumstances, we are of the view that there was no justification on the part of the State to woke up after the lapse of 15 years and terminate the services of the appellant on such ground. In any case, we are of the view that whether it was a conscious decision of the State to give appointment to the appellant as we have held above or a case of mistake on the part of the State in giving appointment to the appellant which now as per the State was contrary to the policy as held by the learned Single Judge, the State by their own conduct having condoned their lapse due to passage of time of 15 years, it was too late on the part of the State to have raised such ground for cancelling the appellant's appointment and terminating his services. It was more so because the appellant was not responsible for making any false declaration and nor he suppressed any material fact for securing the appointment. The State was, therefore, not entitled to take advantage of their own mistake if they felt it to be so. The position would have been different if the appellant had committed some kind of fraud or manipulation or suppression of material fact for securing the appointment. As mentioned above such was not the case of the State.

16. It is for this reason, we are of the view that action on the part of welfare State in terminating the appellant's service on such ground cannot be countenanced. We, therefore, disapprove the action taken by the State."

7. In the case at hand, the State Government having taken a conscious decision to appoint the dependent of the

deceased to meet the financial hardship, being a welfare State, cannot be allowed to revert back and revoke the appointment after fairly long time particular there being no suppression or omission on the part of dependent to supply any information.

8. In the light of principle of law laid down by the Supreme Court in the above-stated judgment, if the facts of the present case are examined, it is quite vivid that the petitioner has been given appointment by the State Government with an open eyes. Appointment was not secured by making any mis-representation or fraud. The State Government after taking a conscious decision has appointed the petitioner in which he has worked for a decade and he has also been regularized on the post of Assistant Grade- III and promoted on the post of Assistant Grade- II, therefore, such an appointment could not have been revoked by the State Government.

9. There is one more ground for not upholding the impugned order. The petitioner was appointed by order dated 26.10.2016 and he was regularized on the said post and was promoted on the post of Assistant Grade-II also. The

petitioner's services have been terminated without making any departmental enquiry, whereas the petitioner has been regularized and holding regular post and his services could not have been terminated without holding regular departmental enquiry. The Supreme Court in the matter of ***Avtar Singh Vs. Union of India***[2] and others has held that departmental enquiry is necessary before passing the order of termination/removal against confirmed employee on the ground of suppression of information or submitting false information.

10. Applying the well settled principles of law to the facts of the case at hand and for the reasons discussed hereinabove, I am of the considered view that the impugned order dated 9.9.2026 cannot be sustained and is hereby quashed. The respondents are directed to reinstate the petitioner in service forthwith.

11. The writ petition is **allowed**.

Sd/-

(Bibhu Datta Guru)
JUDGE

Shoaib

2 AIR 2016 SC 3598