



AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 759 of 2020

Reserved on : 08.07.2022

Delivered on : 10.10.2022

Smt. Meena Sidar, D/o Late Amritlal Sidar, W/o Jageshwar Sidar, aged about 35 years, R/o Village- Kalmi (Dipapara), Post-Dhanangar, District- Raigarh (C.G.)

---- **Petitioner**

Versus

1. State of Chhattisgarh, through: The Secretary, Energy and Power Department, Mantralaya, Mahanadi Bhawan, New Raipur (C.G.)
2. Chairman, C.G. State Power Transmission Company Limited, Danganiya, Raipur, District- Raipur (C.G.)
3. Chief Engineer, C.S.P.T.C.L., Bilaspur Division, Tifra, District- Bilaspur (C.G.)
4. Additional Chief Engineer, C.S.P.T.C.L., Quarter No. C/8-11 (First Floor), Danganiya, Raipur (C.G.), Pin- 492013.
5. Superintending Engineer, C.S.P.T.C.L., Bilaspur Division, Tifra, District- Bilaspur (C.G.)
6. Executive Engineer, C.S.P.T.C.L., Sub-Bilaspur, Tifra, District- Bilaspur (C.G.)
7. Executive Engineer, C.S.P.T.C.L., Raigarh Division, Kotra Road Raigarh, District- Raigarh (C.G.)

Respondents

For Petitioner : Mr. R.S. Patel, Advocate.
For State/ Respondent No. 1 : Mr. Akash Pandey, Panel Lawyer.
For Respondents No. 2 to 7 : Mr. Varun Sharma, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

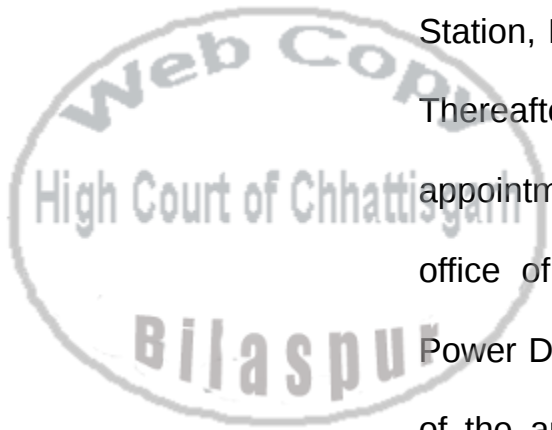
C.A.V. ORDER

1. The petitioner who is married daughter of deceased- Amritlal Sidar, has filed present writ petition challenging the order dated 16.12.2019 (Annexure P/1) passed by respondent No. 1 by



which the petitioner's representation for grant of compassionate appointment has been rejected on the count that as per policy for grant of compassionate appointment dated 28.02.2004, application should have been filed within one year and since the application has been filed after the limitation provided under the circular, the same cannot be considered and accordingly, it has been rejected.

2. The brief facts as reflected from the record are that the petitioner, who is married daughter of deceased- Amritlal Sidar working as Attendant Grade-II in the office of Executive Engineer, Sub-Station, Bilaspur and posted at Raigarh, expired on 29.10.2007. Thereafter, his son applied for grant of compassionate appointment on 02.01.2013 by submitting his application in the office of Executive Engineer, Sub-Centre, Chhattisgarh State Power Distribution Company Limited, Bilaspur. During pendency of the application, brother of the petitioner namely Shankarlal Sidar also expired on 09.04.2015, thereafter, she has filed the application for grant of compassionate appointment on 04.09.2019. It has also been contended that earlier the petitioner has filed WPS No. 8473/2019 before this Court as her application for grant of compassionate appointment was pending before the respondent authorities. This Court considering the submission has directed respondent No. 2 to decide the representation of the petitioner for grant of compassionate appointment within a period of 90 days from the date of receipt of copy of the order. In pursuance of the direction issued by this



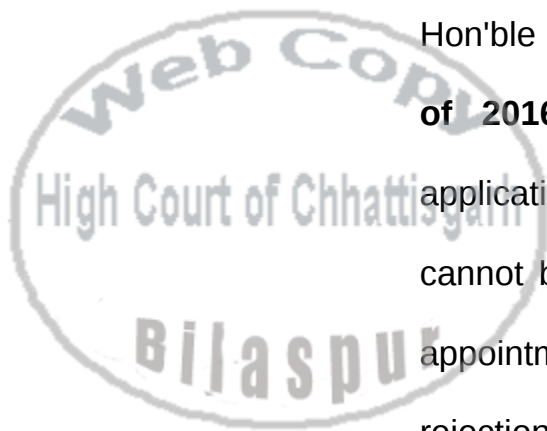


Court, respondent No. 4 has decided the representation and rejected the same for the reason that the application is belated one.

3. Learned counsel for the petitioner would submit that earlier there was no provision for grant of compassionate appointment to a married daughter and this provision has been inserted w.e.f. 29.08.2016 by the State Government in view of judgment passed by this Court in case of **Chandrani Sinha Vs. Chhattisgarh State Electricity Holding Company Limited, Daganiya, Raipur (C.G.) & another**¹ as well as the judgment passed by Hon'ble the Division Bench of this Court in **Writ Appeal No. 525 of 2016** decided on **21.11.2016** thereafter she filed the application for grant of compassionate application, as such, it cannot be said that the application for grant of compassionate appointment is belated one. He would further submit that rejection of the application for alleged delay is against the law laid down by this Court in case of **Smt. Bhunbaisahu Vs. State**² and would pray for quashing of the impugned order dated 16.12.2019 (Annexure P/1).
4. On the other hand, learned counsel for respondents No. 2 to 7 has filed their return, in which, they have narrated the limitation period provided in the circular dated 28.02.2004 which provides one year of limitation for applying for grant of compassionate appointment. It has been further contended that earlier petitioner's brother has applied for grant of compassionate

1 2016 (Labour and Industrial Cases) 4527

2 2002 (1) CGLJ 257





appointment on 19.03.2013, which has been returned by the Executive Engineer, Sub-Station, Division-Bilaspur vide memo dated 10.03.2014, as it was incomplete form, wherein it has been mentioned that when deceased Amritlal's wife Smt. Gayatri Bai appeared for taking retiral dues, it was informed her about the policy of compassionate appointment, but she has shown unwillingness to get the compassionate appointment. It has also been mentioned in the said memo dated 10.03.2014 that none of the family members has submitted application for grant of compassionate appointment within one year, thereafter, the petitioner's brother application was rejected as the deceased-Amritlal expired on 29.10.2007 and the application for grant of compassionate appointment was submitted after 5 years & 6 months, as such, the application is delayed one and on this count alone, the same was rejected on 14.10.2015 after death of Shankarlal on 09.04.2015. Thereafter, the petitioner has filed application for grant of compassionate appointment, which was returned to the petitioner on 18.09.2019 on the count that the petitioner's brother's application was delayed one and accordingly the application was returned back to the petitioner.

5. It has been further contended by the respondents that the petitioner concealing the fact that on 18.09.2019, the application has been returned back to the petitioner, has filed the petition bearing WPS No. 8473/2019, wherein this Court vide its order dated 16.10.2019 has directed the respondents to decide the application of the petitioner for grant of compassionate



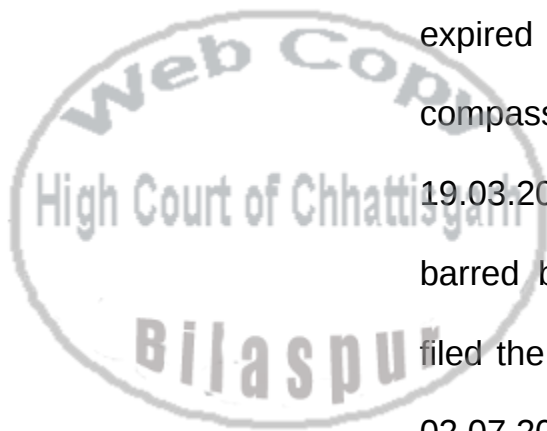


appointment. The same has been rejected on 16.12.2019 by the respondents. Learned counsel for the respondents would submit that the application has been rightly rejected by the respondents and in support of his contention he relied upon the judgment of Hon'ble the Supreme Court in **State of Himachal Pradesh Vs. Prakash Chandra & others**³ and would pray for dismissal of the petition.

6. I have heard learned counsel for the parties and perused the documents annexed with the petition with utmost satisfaction.

7. From the facts, it is not in dispute that the petitioner's father expired on 29.10.2007 and the application for grant of compassionate appointment by petitioner's brother was filed on 19.03.2013 after lapse of 5 years and 6 months, which is itself barred by limitation and thereafter, the present petitioner has filed the application for grant of compassionate appointment on 02.07.2019, which was also delayed by about 4 years of rejection of earlier application of petitioner's brother on 14.10.2015 though the application was rejected after death of petitioner's brother. This Court cannot lose sight of the fact that the petitioner was married on 16.02.2005 before death of deceased- Amritlal, therefore, it cannot be said that the petitioner was dependent upon the earning of her father. Whether the married daughter is dependent or not has been recently examined by Hon'ble the Supreme Court in **State of Maharashtra & another Vs. Ms. Madhuri Maruti Vidhate**

3 2019 (4) SCC 285





(Since after marriage Smt. Madhuri Santosh Koli)⁴ wherein it

has been held at paragraph Nos. 7 & 8 as under:-

“7. Thus, as per the law laid down by this Court in the aforesaid decisions, compassionate appointment is an exception to the general rule of appointment in the public services and is in favour of the dependents of a deceased dying in harness and leaving his family in penury and without any means of livelihood, and in such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis. The object is not to give such family a post much less a post held by the deceased.

7.1. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, to appoint the respondent now on compassionate ground shall be contrary to the object and purpose of appointment on compassionate ground. The respondent cannot be said to be dependent on the deceased employee, i.e., her mother. Even otherwise, she shall not be entitled to appointment on compassionate ground after a number of years from the death of the deceased employee.

8. Under the circumstances and in the facts and circumstances of the case narrated hereinabove, the Tribunal as well as the High Court have committed serious error in directing the appellants to appoint the respondent on compassionate ground. The judgment and order passed by the Tribunal confirmed by the High Court directing the appellants to consider the case of the respondent for appointment on compassionate ground after a number of years is unsustainable.”

8. Hon'ble the Supreme Court in **Punjab State Power Corporation Limited & others Vs. Nirval Singh⁵**, has held at paragraph Nos.

4 Civil Appeal No. 6938/2022 (Decided on 30.09.2022)

5 (2019) 6 SCC 774





7 to 9 as under:-

“7. In our view there is more than one impediment in the way of the respondent.

8. The first is the delay in approaching the Courts for redressal after a period of 7 years even if he is making representations. The very objective of providing immediate amelioration to the family is extinguished. The second is that the earlier policy having been abolished and the new policy having coming into force, the application has been considered under the new policy and the options available were offered to the respondent who failed to avail of the same.

9. Our attention has been drawn to the relevant clause of the new policy which reads as under:

“The above policy instructions shall be applicable from the date of issue of instructions. The cases, where compassionate employment has not been given due to discontinuance of the earlier policy since 4/2002, shall also be considered and requisite relief, in lieu compassionate employment, shall be granted as per above policy instructions.”.

9. Now coming to the facts of the case, it is quite vivid that the petitioner's father expired on 29.10.2007 and she has filed the present writ petition after about 13 years and the fact that the petitioner is a married daughter before death of deceased, as such, she cannot be said to be dependent on the earning of her father. As such, the judgment passed by Coordinate Bench of this Court in case of **Chandrani Sinha (Supra)** decided on 07.09.2016, wherein this Court has directed the respondent to provide clause in the policy to grant compassionate appointment to married daughter subject to fulfilling the condition of policy. So far as this legal proposition held by the Coordinate and the Division Bench is concerned, it is not in dispute, but this Court has to examine in the given facts and circumstances, whether the petitioner who is married daughter, is entitled to get





compassionate appointment or not. The facts reflected from the record that the petitioner is married before death of her father, as such, she cannot be dependent on earning of her father and coupled with the fact that she has filed the present application for grant of compassionate appointment after 12 years of death of her father. These grounds clearly dis-entitle the petitioner to get compassionate appointment as per the law laid down by Hon'ble the Supreme Court in **Ms. Madhuri (Supra) & Nirval Singh (Supra)** and also that the petitioner's application for grant of compassionate appointment has been filed after 12 years of her father's death before the respondents, therefore, the very object of providing compassionate appointment to ameliorate the condition of the family at the relevant of time, is already achieved as the family is already survived for such a long period, therefore, the petitioner has no legal right to get compassionate appointment after lapse of about 15 years of death of her father. Hon'ble the Supreme in very recent judgment has examined the effect of survival of deceased family member after inordinate period of 14/24 years in case of **Fertilizers and Chemicals Travancore Ltd. & Ors. Vs. Anusree K.B.**⁶ has held at paragraph 9 as under:-

“9. Thus, as per the law laid down by this Court in the aforesaid decisions, compassionate appointment is an exception to the general rule of appointment in the public services and is in favour of the dependents of a deceased dying in harness and 5 leaving his family in penury and without any means of livelihood, and in such cases, out of pure humanitarian consideration taking into

6 Civil Appeal No. 6958 of 2022 (Decided on 30.09.2022)



consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis. The object is not to give such family a post much less a post held by the deceased.

9.1. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and considering the observations made hereinabove and the object and purpose for which the appointment on compassionate ground is provided, the respondent shall not be entitled to the appointment on compassionate ground on the death of her father, who died in the year 1995. After a period of 24 years from the death of the deceased employee, the respondent shall not be entitled to the appointment on compassionate ground. If such an appointment is made now and/or after a period of 14/24 years, the same shall be against the object and purpose for which the appointment on compassionate ground is provided.

9.2. Under the circumstances, both, the learned Single Judge as well as the Division Bench of the High Court have committed a serious error in directing the appellants to reconsider the case of the respondent for appointment on compassionate ground. The impugned judgment and order passed by the High Court is unsustainable.”

10. Considering the entire material, facts on record, looking to the facts and circumstances of the case, this Court does not find any irregularity or illegality in the impugned order dated 16.12.2019 (Annexure P/1) by which the petitioner’s application for grant of compassionate appointment has been rejected.
11. In view of the aforesaid discussion, the writ petition deserves to be and is hereby dismissed. No order as to costs.

Sd/-
(Narendra Kumar Vyas)
Judge

