



2026:CGHC:19079

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3930 of 2024**

Baijanti Bhardwaj D/o Late Shri Firtu Ram Bhardwaj, Aged About 38 Years
R/o Village And Post Kurda, Block Malkharouda, District Sakti (C.G.) Pin
495691.

... Petitioner**versus**

1 - State Of Chhattisgarh Through Secretary, School Education Department,
Mantralaya, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

2 - Collector, Office Of The Collectorate District Koriya (C.G.)

3 - Collector, (Tribal Development) Baikunthpur, District Koriya (C.G.)

4 - Director, Public Instruction Directorate Chhattisgarh, First Floor, C-Block,
Indrawati Bhawan, Nawa Raipur, Atal Nagar, District Raipur (C.G.)

5 - District Education Officer (Deo) District Koriya (C.G.)

6 - District Education Officer (Deo) Janjgir, District Janjgir-Champa (C.G.)

7 - Block Education Officer (Beo) Block Manendragarh, District Koriya (C.G.)

... Respondents

For Petitioner : Mr. Syed Afaq Hussain Rizvi, Advocate
For Respondents/State : Mr. Aditya Tiwari, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order On Board

25.04.2026

1. Petitioner has filed this petition seeking following relief (s) :-

“ 10.1 That, the Hon’ble Court may kindly be please to call for the entire records pertaining to the case of petitioner for its kind perusal and thereafter allow the petition.

10.2 That, the Hon’ble Court may kindly be pleased to quash the letter datead 25/09/2009 (Annexure P-9) issued by the respondent no. 3 to petitioner, whereby the authority not provided compassionate appointment before 2009.

10.3 That, the Hon’ble Court may kindly further be pleased to quash the letter dated 22/2/2023 (Annexure P-15) whereby the respondent no. 5 has given wrong and misconceived opinion to respondent no. 2 Collector regarding application of petitioner for compassionate appointment.

10.4 That the Hon’ble Court may kindly further be pleased to direct the respondent authorities to provide compassionate appointment to the petitioner on the basis of her application submitted before the respondent no. 7 BEO on 14/01/2005 (Annexure P-2)

10.5 Any other relief, or direction which the Hon’ble court may deems fit, be also awarded to the petitioner.”

2. Learned counsel for the petitioner submits that father of petitioner while working on the post of Block Education Officer at Manendragarh,

District- Koriya (C.G.) died in harness on 05.11.1989. Petitioner after attaining the age of majority had submitted an application before the then Block Education Officer, Manendragarh, District – Koriya (C.G.)/respondent no. 7 in the month of January, 2005 which was forwarded by Block Education Officer, Manendragarh, District- Koriya to Collector, Baikunthpur, District – Koriya by letter dated 25.11.2011. He next submits that the claim of petitioner was arbitrarily rejected observing that as the death of father of petitioner while in service was prior to 01.11.2000 therefore, there is no provision of grant of compassionate appointment to petitioner as the deceased employee who died in harness was prior to 01.11.2000. The said order is highly arbitrary and unreasonable. He lastly submits that petitioner have continuously approached the authorities to consider the application of petitioner in a lenient and humanitarian manner, however, District Education Officer, Baikunthpur, District- Koriya vide letter dated 22.02.2023 has informed the Collector that as petitioner has not submitted any application within prescribed time it is not possible to give her compassionate appointment and copy of the said letter was forwarded to petitioner and, thereafter this writ petition is filed.

3. Learned counsel for the State opposes the submission made by learned counsel for petitioner and would submit that this writ petition is filed with in-ordinate delay. He submits that the respondent authorities have not committed any error in rejecting the application of petitioner observing that policy of 2003 which is relied upon by respondent authorities to consider the claim of petitioner specifically provides that the application for grant of compassionate appointment would not be considered if the death of employee is prior to 01.11.2000. He further

the application of petitioner was rejected on 29.09.2009 and this writ petition is filed after about 14 years, and also that the writ petition challenging the order of rejection of claim of petitioner is filed with an in-ordinate delay. In support of his contention he referred to the circular issued by State Government dated 10.06.2023.

4. I have heard learned counsel for the respective parties and perused the documents available on record.
5. It is not in dispute that the father of the petitioner i.e. deceased employee died on 05.11.1989 i.e. much before the reorganization of the State of Madhya Pradesh and carving out of new State of Chhattisgarh on 01.11.2000. The application submitted by petitioner in the year 2005 was considered by authorities in the light of circular/guidelines issued by State Government dated 10.06.2023 and also taking note of the Clause 12(5) the respondent authorities rejected the claim of petitioner holding that the death of deceased was prior to 01.11.2000.
6. In cases of considering the application for grant of Compassionate Appointment and the decision of the concerned authority Court in exercise of its jurisdiction under Article 226 of the Constitution of India is only to see whether the action on the part of respondent authorities considering the application for grant of compassionate appointment is according to the clauses of the concerned circulars/guidelines or provisions only. The Courts in exercise of its jurisdiction under Article 226 of the Constitution of India cannot re-write the terms of policy formulated by authorities to grant compassionate appointment to the legal representatives/dependents of deceased employee.

7. Hon'ble Supreme Court in case of **State of Himachal Pradesh and Another Vs. Parkash Chand** reported in (2019) volume 4 SCC 285 has observed as under:-

“10. In the exercise of judicial review under Article 226 of the Constitution, it was not open to the High Court to rewrite the terms of the Policy. It is well settled that compassionate appointment is not a matter of right, but it must be governed by the terms on which the State lays down the policy of offering employment assistance to a member of the family of a deceased government employee.

11. For the above reasons, we are of the view that the judgment of the High Court is unsustainable. The High Court has virtually rewritten the terms of the Policy and has issued a direction to the State to consider applications which do not fulfill the terms of the Policy. This is impermissible.”

8. The petitioner in this case has not challenged the policy but is seeking benefit of compassionate appointment followed from the policy made applicable by the State Government.
9. In the aforementioned facts of the case the decision of respondent authority vide Annexure P-9 rejecting the application for grant of compassionate appointment of petitioner through letter of communication dated 25.09.2009 is in accordance with the terms of policy of compassionate appointment and therefore, I do not find any good ground to interfere with the decision taken in this regard by respondent authorities.

10. One more glaring fact which is relevant to discuss in the facts of the case is that the claim of petitioner was rejected by concerned authority on 25.09.2009. Petitioner has approached this Court by filing of this writ petition on 11.07.2024 which is almost about 14 years from the date of rejecting the application. The writ petition is filed with inordinate delay. In para no. 7 of writ petition which deals with “delay if any in filing the petition”. Petitioner has not offered any acceptable explanation but for, stating that petitioner is continuously submitting representations. It is not the case that petitioner application was not considered and remain pending till the date of filing of writ petition but it is the case of petitioner where application submitted by petitioner is considering to the terms of policy of compassionate appointment i.e. Clause 12(5) of the policy and thereafter, respondent authorities rejected the claim of petitioner observing that the policy made applicable in case of death of deceased employee after 01.11.2000.
11. Hon’ble Supreme Court in case of **State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari** reported in (2013) 12 SCC 179 in para no. 21, 23 and 25 has observed as under:-

“21. In State of Orissa v. Pyarimohan Samantaray it has been opined that making of repeated representations is not a satisfactory explanation of delay. The said principle was reiterated in State of Orissa V. Arun Kumar Patnaik.

23. In State of T.N. v. Seshachalam, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: (SCC p.145, para 16)

16..... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

25. In NDMC, v. Pan Singh, the Court has opined that though there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, yet ordinarily a writ petition should be filed within a reasonable time. In the said case the respondents had filed the writ petition after seventeen years and the court, as stated earlier, took note of the delay and laches as relevant facts and set aside the order passed by the High Court which had exercised the discretionary jurisdiction.”

12. Purpose to grant compassionate appointment to one of the dependent of family member of deceased employee is to provide immediate support to mitigate the hardship to be faced upon the death of bread winner in the family. Compassionate appointment is not the source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. The object to grant compassionate appointment is to enable family to get over sudden financial crisis.
13. Hon’ble Supreme Court in case of **Punjab National Bank & Ors. V. Ashwini Kumar Taneja** reported in **(2004) 7 SCC 265**, has observed as under :-

“4..... It is to be seen that the appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of the employee concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis.”

14. In case of **Santosh Kumar Dubey v. State of UP & Ors.** Reported in **(2009) 6 SCC 481**, the Hon'ble Supreme Court while dealing with the identical issue has held as under:-

“.....11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that is faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in Government service.

13. In the present case, the father of the appellant became untraceable in the year 1981 and for about 18 years, the family could survive and successfully faced and overcame the financial difficulties that they faced on missing of the earning member. That being the position, in our considered

opinion, this is not a fit case for exercise of our jurisdiction....”

15. From the facts as discussed above it is apparent that after rejecting the claim of petitioner, petitioner has approached this Court after lapse of about more than 14 years. The specific period of limitation to file writ petition under Article 226 of the Constitution of India is not specifically provided but it is incumbent upon the petitioner to approach the Court by way of filing this writ petition within a reasonable period of time.
16. Taking into consideration upon the entire facts and circumstances for the case that is death of deceased on 05.11.1989 and petitioner approaching this court in the year 2024 in the opinion of this court the emergent need of financial support through compassionate appointment has lost the sense of immediacy.
17. Hon’ble Supreme Court in case of **State of Himachal Pradesh Vs. Shashi Kumar**, reported in **(2019) 4 SCC 285**, has held as under:-

“35. Insofar as the individual facts pertaining to the respondent are concerned, it has emerged from the record that the Writ petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The respondent waited thereafter for a period in excess of seven years to move a petition under Article 226 of the Constitution. In *Umesh Kumar Nagpal* (supra), this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing

immediate assistance to the family of the deceased employee. This sense of immediately is evidently lost by the delay on the part of the dependent in seeking compassionate appointment.

18. Hon'ble Supreme Court in case of **State of Maharashtra v. Ms. Madhuri Maruti Vidhate** in **Civil Appeal No. 6938/2022** decided on **30.09.2022**, has observed as under:-

“7. Thus, as per the law laid down by this Court in the aforesaid decision, 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 dependents 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 herein above, 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.”

19. In the aforementioned facts of the case and the decision of Hon’ble Supreme Court as referred above, in the opinion of this Court, this Writ Petition is also to be dismissed on the ground of delay and latches.
20. For the forgoing discussion and the decision of Hon’ble Supreme Court in above mentioned cases, I am of the considered view that the petitioner is not entitled for the relief as claimed for. The writ petition being devoid of merits is liable to be and is hereby **dismissed** on merits, as also on delay and latches.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

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