

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.4219 of 2004

Order reserved on: 2-11-2016

Order delivered on: 7-11-2016

Raghuvendra Das Manikpuri, S/o Late Shri Ram Nihora Das Manikpuri, aged about 23 years, R/o Vill. Pandatarai, Tahsil Pandariya, Distt. Kabirdham (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, General Administration, School Education Department, D.K.S. Bhavan, Raipur.
2. State of Madhya Pradesh, Through Secretary, School Education Department, Wallabh Bhavan, Bhopal (M.P.)
3. Director, Public Education, Bhopal (M.P.)
4. Director, Public Education, Raipur (C.G.)
5. District Education Officer, Kabirdham (Kawardha) (C.G.)

---- Respondents

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For Petitioner: Mrs. Meena Shastri, Advocate.  
For State of Chhattisgarh/Respondents No.1, 4 and 5: -  
Mrs. Astha Shukla, Panel Lawyer.

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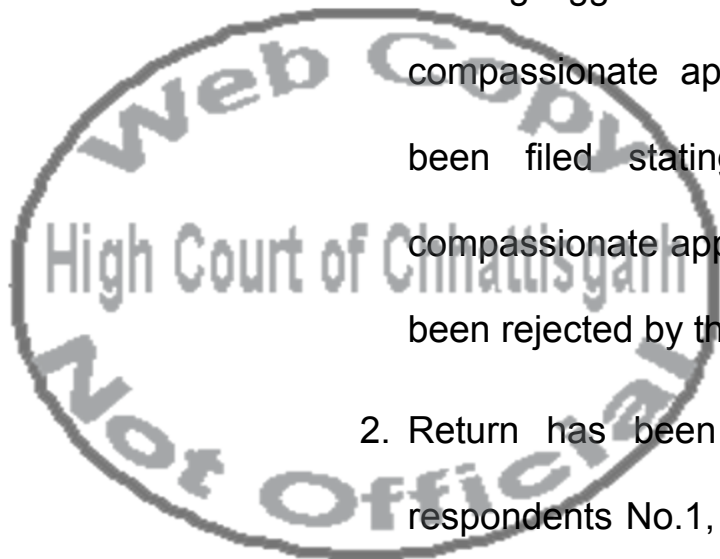
Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. Petitioner's father Shri Ram Nihora Das Manikpuri, while working as Head Master in the Government Primary School, Kharkhatta, Distt. Kabirdham (Kawardha), died in harness on 7-6-1996. The petitioner was minor at that time therefore he could not make application for compassionate

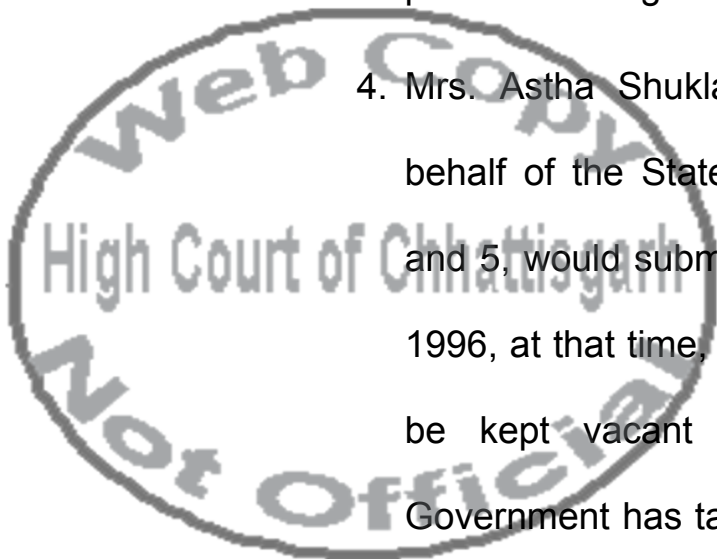
appointment. He became major and filed application for compassionate appointment on 17-5-2000. The said application has been rejected by the District Education Officer, Kabirdham by order dated 11-8-2003 holding that the petitioner's father died prior to reorganization of the State i.e. 1-11-2000 and the petitioner is able to maintain his family from the date of death of his father till this date therefore he is not entitled for compassionate appointment. Feeling aggrieved against the order rejecting his case for compassionate appointment, the instant writ petition has been filed stating that the petitioner is entitled for compassionate appointment and his application has illegally been rejected by the District Education Officer, Kabirdham.

2. Return has been filed by the State of Chhattisgarh / respondents No.1, 4 and 5 stating that the petitioner's case has been considered in accordance with law and also in accordance with the circular dated 1-5-2000 issued by the State of Madhya Pradesh and since the petitioner's case relates to prior to 1-11-2000, the petitioner's case cannot be considered for appointment in the State of Chhattisgarh and therefore his application for compassionate appointment is liable to be rejected and was accordingly rejected.
3. Mrs. Meena Shastri, learned counsel appearing for the petitioner, would submit that the petitioner's case has not been considered in accordance with law in force and his



application has been rejected merely because the circular dated 1-5-2000 is not applicable, however, the circular existing at the time of death of the petitioner's father in the year 1996 would be applicable for consideration of the petitioner's case for appointment. The order passed by the District Education Officer is *ex facie* illegal and therefore it cannot be maintained and it be set aside, and the District Education Officer be directed to consider the case of the petitioner and grant compassionate appointment to him.

4. Mrs. Astha Shukla, learned Panel Lawyer appearing on behalf of the State of Chhattisgarh / respondents No.1, 4 and 5, would submit that the petitioner's father died on 7-6-1996, at that time, the petitioner was major and post cannot be kept vacant for an indefinitely long time. The Government has taken a policy decision not to consider the cases prior to 1-11-2000 therefore his case for compassionate appointment has rightly been rejected.
5. I have heard learned counsel for the parties and given thoughtful consideration to the submissions made and also gone through the record with utmost circumspection.
6. It is not in dispute that father of the petitioner died on 7-6-1996 and application for compassionate appointment was filed on 17-5-2000. By order dated 11-8-2003, the District Education Officer, Kabirdham has rejected the application



on the ground that the petitioner's father died prior to reorganization of the State i.e. 1-11-2000 and the petitioner is able to maintain his family from the date of death of his father till that date therefore he is not entitled for compassionate appointment.

7. The State of Chhattisgarh has taken a policy decision that cases relating to Government servants, who died with effect from 1-11-2000, will be considered by the State of Chhattisgarh for appointment on compassionate ground and by the circular dated 2-2-2006, earlier circular has been modified stating that if the Government servant has died during his/her posting in the territorial area now falling within the State of Chhattisgarh from 1-11-1997 to 31-10-2000, their cases will be considered as per the circular applicable/relevant in the undivided State of Madhya Pradesh.

8. In the case in hand, father of the petitioner died on 7-6-1996, therefore in the light of the guidelines issued by the State Government dated 2-2-2006, case of the petitioner for compassionate appointment is liable to be considered by the State of Chhattisgarh. Circular dated 2-2-2006 is reproduced herein-below for ready reference of this Court:-

छत्तीसगढ शासन  
सामान्य प्रशासन विभाग  
मंत्रालय

दाऊ कल्याण सिंह भवन, रायपुर

क्रमांक एफ 7-4/2002/1-3 रायपुर, दिनांक 2 फरवरी, 2006

प्रति,

शासन से समस्त विभाग,  
अध्यक्ष, राजस्व मण्डल, छ0ग0, बिलासपुर,  
समस्त विभागाध्यक्ष, समस्त जिलाध्यक्ष,  
समस्त मुख्य कार्यपालन अधिकारी,  
छत्तीसगढ़।

विषय:-शासकीय सेवकों की असामयिक मृत्यु होने पर उनके परिवार के  
आश्रित सदस्य को नौकरी में प्राथमिकता।

संदर्भ:- इस विभाग के समसंख्यक निर्देश दिनांक 10-6-2003.

संदर्भित परिपत्र द्वारा शासकीय सेवकों की असामयिक मृत्यु  
होने पर उनके परिवार के आश्रित सदस्य को अनुकंपा नियुक्ति दिये  
जाने के निर्देश प्रसारित किये गये हैं। इस निर्देशों की कंडिका 3 (12)  
5 में निम्नानुसार प्रावधान है:-

"इन निर्देशों के अंतर्गत केवल छत्तीसगढ़ राज्य गठन की  
तिथि/दिनांक 1-11-2000 या उसके पश्चात् दिवंगत हुए  
शासकीय सेवकों के मामलों पर विचार किया जाएगा।"

2. इस संबंध में मा0 उच्च न्यायालय, बिलासपुर ने राज्य गठन से  
पूर्ववर्ती 3 वर्ष अर्थात् दिनांक 1-11-1997 से दिनांक 31-10-2000,  
की अवधि में मृतक हुए शासकीय सेवकों के आश्रितों के प्रकरणों पर,  
उस समय लागू निर्देशों के अंतर्गत अनुकंपा नियुक्ति दिये जाने का  
निर्णय/आदेश दिया है। अतः उक्त कंडिका 3(12) 5 को निरस्त कर  
उसे निम्नानुसार संशोधित रूप में प्रतिस्थापित किया जाता है:-

"इन निर्देशों के अंतर्गत छत्तीसगढ़ राज्य गठन की तिथि  
दिनांक 1-11-2000 के पश्चात् दिवंगत हुये शासकीय सेवकों  
के आश्रितों के मामलों पर विचार किया जायेगा तथा दिनांक  
1-11-1997 से दिनांक 31-10-2000 का छत्तीसगढ़ क्षेत्र में  
पदस्थी के दौरान मृतक शासकीय सेवकों के आश्रितों के



प्रकरणों पर अविभाजित म0प्र0 में अनुकंपा नियुक्ति के लिये प्रचलित निर्देशों के अंतर्गत विचार किया जायेगा।”

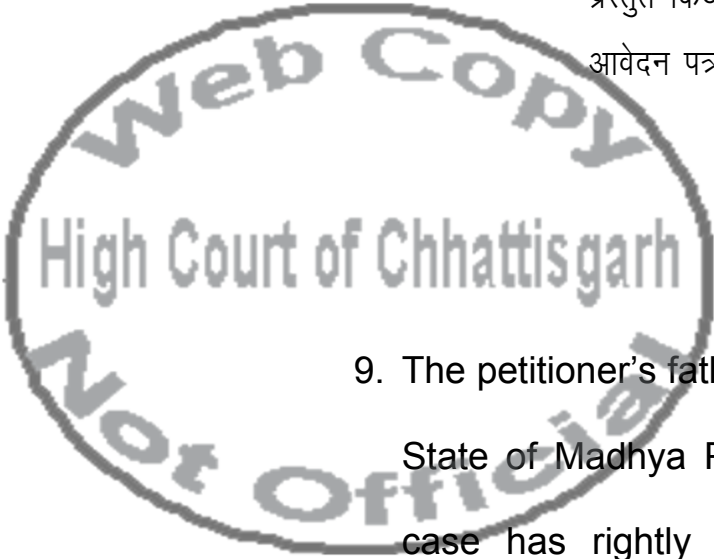
3. वर्तमान निर्देशों में मृतक शासकीय सेवकों के आश्रित को अनुकंपा नियुक्ति के लिये आवेदन प्रस्तुत करने के लिए कोई समय सीमा निर्धारित नहीं है। अतः अनुकंपा नियुक्ति निर्देश की कंडिका “3 (9)– अनुकंपा नियुक्ति की प्रक्रिया” में कंडिका 3 (9) 2 के बाद नवीन प्रावधान 3 (9) 3 निम्नानुसार सम्मिलित किया जाता है:–

“3 (9) 3 अनुकंपा नियुक्ति हेतु निर्धारित आवेदन पत्र दिवंगत शासकीय सेवक के परिवार के आश्रित सदस्य द्वारा शासकीय सेवक की मृत्यु दिनांक से 6 माह की समय सीमा के भीतर प्रस्तुत किया जा सकता है। इस समय सीमा के पश्चात् प्रस्तुत आवेदन पत्र विचार योग्य नहीं होगा।”

(एस0 आर0 सेजकर)  
अवर सचिव  
छत्तीसगढ़ शासन  
सामान्य प्रशासन विभाग

9. The petitioner's father died on 7-6-1996, when the undivided State of Madhya Pradesh was in existence, therefore, his case has rightly not been considered by the State of Chhattisgarh in the light of policy decision of the Government of Chhattisgarh.

10. It is settled law that object of granting compassionate appointment is to enable the family of the deceased employee to tide over sudden crisis resulting due to death of breadwinner, who had left the family in penury and distress and in absence of specific provisions in the rules, post for such appointment cannot be kept open till such time or awaiting attainment of majority of the member of the



deceased Government servant.

11. In the matter of **Sanjay Kumar v. State of Bihar and others**<sup>1</sup> while noticing the object of granting compassionate appointment, the Supreme Court has considered the issue in question and held that there cannot be reservation of a vacancy till the dependent becomes major and observed as under:-

“3. ... There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.”

12. Likewise, similar is the decision rendered by the Supreme Court in the matter of **Local Administration Department and another v. M. Selvanayagam alias Kumaravelu**<sup>2</sup>.

Paragraphs 13 and 14 of the report state as under:-

“13. In this case the respondent was only 11 years old at the time of the death of his father. The first application for his appointment was made on 2-7-1993, even while he was a minor. Another application was made on his behalf of attaining majority after 7 years and 6 months of his father’s death. In such a case, the appointment cannot be said to subserve the basic object and purpose of the scheme. It would rather appear that on attaining majority he staked his claim on the basis that his father was an employee of the Municipality and he had died while in service.

14. In the facts of the case, the municipal authorities were clearly right in holding that with whatever difficulty, the family of

1 (2000) 7 SCC 192

2 (2011) 13 SCC 42



Meenakshisundaram had been able to tide over the first impact of his death. That being the position, the case of the respondent did not come under the scheme of compassionate appointments.”

13. This Court in the matter of **Nagendra Singh Parihar v. The State of Chhattisgarh and Ors.**<sup>3</sup> considered the question as to whether the dependent is entitled to appointment on compassionate basis after he attains majority and answered the question in negative.

14. Accordingly, it is held that the petitioner is not entitled to be considered for compassionate appointment as his application cannot be considered by the Government of Chhattisgarh and its authorities in view of the policy decision of the Government of Chhattisgarh and the petitioner's application also suffers from delay and laches as well. Therefore, the respondents are justified in rejecting the application of the petitioner.

15. Consequently, the writ petition being without substance is liable to be dismissed and is accordingly dismissed. No order as to cost(s).

Sd/-  
(Sanjay K. Agrawal)  
Judge

Soma

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<sup>3</sup> 2008 (2) C.G.L.J. 189



HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.4219 of 2004

Raghuvendra Das Manikpuri

Versus

State of Chhattisgarh and others

HEAD NOTE

Application for compassionate appointment filed by the dependent of a Government servant who died prior to 1-11-1997 cannot be considered by the Government of Chhattisgarh in view of policy decision of the State Government.

ऐसा शासकीय सेवक जिसकी मृत्यु 1.11.1997 के पूर्व हो चुकी है, के आश्रित द्वारा प्रस्तुत आवेदन पत्र वास्ते अनुकंपा नियुक्ति पर छत्तीसगढ़ शासन द्वारा राज्य शासन के नीतिगत निर्णय के दृष्टिकोण के विचार नहीं किया जा सकता।

