

(2019) 12 CHH CK 0162
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 2700 Of 2014

Deepak Kumar Nag

APPELLANT

Vs

State Of Chhattisgarh Through Secretary And Ors

RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Citation : (2019) 12 CHH CK 0162

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : Dhaniram Patel, Richa Shukla, N. Naha Roy

Final Decision : Dismissed

Judgement

1. Heard.

2. The present petition is filed for the following reliefs:-

"10.1 That this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction setting aside the impugned order dated 01/03/2014 passed by respondent No.3 and direct the respondent authority to give the compassionate appointment to the petitioner in a regular post.

10.2 Any other relief, which may be deemed, fit by this Hon'ble Court just and proper in the facts and circumstances of the case may also be provided in favour of the petitioner."

3. This is the second round of litigation. The brief facts of the case are that the father of the petitioner, who was working as Assistant Development Extension Officer with the State died in harness on 25.02.2001. Subsequent thereto the petitioner moved an application for compassionate appointment. It is the case of the petitioner that the respondents offered him appointment on the post of Shiksha Karmi Grade-III though the regular another post of Assistant Grade-III was lying vacant, therefore, the petition was filed before this which was bearing WPS No.4010 of 2012. It is contended that in such writ petition the High Court

had directed to reconsider the case of the petitioner, however, by order dated 01.03.2014 the application of the petitioner was rejected on the ground that the death of the father of the petitioner has occurred 12 years back and the policy do not allow for appointment on the compassionate ground after such a long gap of period.

4. Learned counsel for the petitioner would submit that on the hyper technical ground, the application for compassionate appointment was rejected, which requires to be set aside.

5. Per contra, learned counsel for the respondents would submit that the petitioner as and when was offered the compassionate appointment, he refused to accept the same thereby he lost his right consequently he cannot claim particular post for appointment, therefore, the case of the petitioner for the compassionate appointment on account of the death of his father which occurred in the year 2001 cannot be considered after the period of 18 years as of now.

6. I have heard learned counsel for the parties and perused the documents.

7. Perusal of the record would show that on 10.09.2012 after the death of the father of the petitioner, the petitioner applied for compassionate appointment. In the background of this case, the following order was passed by this Court in WPS No.4010 of 2012 on 10.09.2012 which reads as under:-

"Learned counsel for the petitioner submits that though the post of Shikshakarmi Grade-III was offered for compassionate appointment vide letter dated 23.06.2010 (Annexure P-4), the petitioner is not inclined to accept appointment and has requested the authority to consider his case for appointment on any vacant post of Assistant Grade-III.

Contents of offer letter dated 23.6.2010 shows that there is no post of Assistant Grade-III available, therefore, the petitioner was offered appointment on the post of Shikshakarmi Grade-III.

It is for the respondents authority to consider whether there is any vacant post to grant compassionate appointment to the petitioner in accordance with the policy of compassionate appointment. The petitioner cannot claim appointment on a particular post. Therefore, in the light of option given by the petitioner on 15.4.2010 (Annexure P-5), the Chief Executive Officer, Jila Panchayat, Janjgir-Champa may take appropriate decision in accordance with law, as per the applicable policy, within a period of 4 weeks from the date of receipt of copy of this order."

8. Perusal of the order fortifies the fact that the petitioner was offered the post of Shiksha Karmi Grade-III by way of compassionate appointment, however, he did not choose to join to the said post instead requested for post of Assistant Grade-III, which was declined. The petitioner thereafter filed a writ petition wherein the orders as indicated above was filed. Thereafter, on representation having been filed eventually order dated 01.03.2014 (Annexure P-6) was passed on the

ground that as 12 years have been passed after the death of the father of the petitioner, consequently, the petitioner cannot be considered for compassionate appointment.

9. The compassionate appointment is meant to take care of the dependents of deceased family who dies in harness. The compassionate appointment is meant for to tide over the sudden financial crisis which occurs with death of earning member. The petitioner in this case though was initially offered the post of Shiksha Karmi Grade-III in the year 2010 by letter dated 23.06.2010 as would be evident from the earlier order, he did not join on the said post, instead wanted to join on the post of Assistant Grade-III. It is not the case where the State has not offered the petitioner the appointment on compassionate ground, the petitioner having not joined on the earlier offered post, cannot claim as a right on any other post subsequently. Therefore, while again the application for compassionate appointment was considered, it was rejected on 01.03.2014 on the ground that 12 years have already passed with the death. It appears when the initial appointment to the petitioner was offered he refused to accept the same and asked for some other post. Therefore, the opportunity having been granted to the petitioner he failed to avail the same and instead chose to slipped through the cracks. The same conduct consequently disentitled him to get the job on compassionate ground. In these background the order rejecting the representation of the petitioner for grant of compassionate appointment for the reason that 12 years have passed after death, I do not find any ambiguity in such order. As of now 19 years have passed from the date of death of the father of the petitioner, therefore, the circumstances would show that the petitioner was able to maintain himself and having rejected the job offer earlier cannot turn round to edge his submission for appointment.

10. The petition being devoid of merit is liable to be and is hereby dismissed.