

(2019) 12 CHH CK 0164
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 10063 Of 2019

Vaibhav Singh

APPELLANT

Vs

State Of Chhattisgarh Through The Secretary And Ors

RESPONDENT

Date of Decision : 03-12-2019

Acts Referred:

Citation : (2019) 12 CHH CK 0164

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : Vivek Kumar Agrawal, Neeraj Pradhan

Final Decision : Allowed

Judgement

1. Heard.

2. The grievance of the petitioner is that the petitioner had applied for the compassionate appointment on account of the death of his father namely Mukesh Kumar Banswar, who died in harness on 24.04.2015 while working as Assistant Teacher (Panchayat) at Government Primary Girls School, Tamashivani, District Raipur (C.G.). The petitioner filed the application for compassionate appointment on 29.07.2015 and the same was rejected on 13.08.2015 on the ground that the petitioner has not passed the B.Ed./D.Ed. and T.E.T. examination.

3. It is contended on behalf of the petitioner that the petitioner has not applied for a particular post i.e. the post of Teacher and the reference is made to the ratio laid down by this Court in WPS No.3220 of 2016 {Pramod Kumar Patel Vs. State of Chhattisgarh & ors.} decided on 28.07.2016 and would submit that the case of the petitioner may be considered for appointment to other post which may be available in the department.

4. Learned State counsel would submit that the petitioner since was not holding any B.Ed/D.Ed and T.E.T. qualification, therefore, his case for compassionate appointment could not be considered by the Chief Executive Officer, Zila

Panchayat, Raipur vide order dated 13.08.2015 (Annexure P-1).

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

6. Perusal of the documents would show that the petitioner applied for compassionate appointment on 29.07.2015. The said application do not contain prayer for appointment to a particular post i.e. of Teacher as that of the late father of the petitioner. The compassionate appointments are meant for support of the family in case of untimely death of the head of the family. The order rejecting the application of the petitioner for grant of compassionate appointment shows that it was rejected on the ground that the petitioner was not having the qualification of B.Ed/D.Ed and T.E.T., therefore, by wrong application of ratio of compassionate appointment at the threshold the prayer is rejected. The appointment on compassionate ground other than post of deceased was considered by the co-ordinate Bench of this Court and this Court has held that if in the given case the petitioner could not be appointed to particular post for want of minimum qualification, nevertheless, he should be considered and appointed on compassionate basis on any other post of Ministerial cadre.

7. Following the aforesaid principles and the facts since there was no specific application was made by the petitioner for appointment to the post of Teacher, in absence of the required qualification, the compassionate appointment cannot be denied in totality as it would defeat the very purpose for which the compassionate appointment policy was set into motion. Consequently, the order dated 13.08.2015 (Annexure P-1) is quashed. The matter is remitted back to the CEO, Zila Panchayat, Raipur so as to reconsider the case of the petitioner for compassionate appointment on any other post other than the teacher of the Ministerial cadre. The said application of the petitioner may be decided within a period of six months from the date of receipt of the copy of this order.

8. Accordingly, the petition stands allowed to the extent indicated above.