
(2023) 04 CHH CK 0049
In the Chhattisgarh High Court
Case No : Writ Appeal No. 108 Of 2022

Zila Panchayat Raipur

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 28-04-2023

Acts Referred:

Citation : (2023) 04 CHH CK 0049

Hon'ble Judges : Ramesh Sinha, CJ; Sanjay K. Agrawal , J

Bench : Division Bench

Advocate : Manish Nigam, H.S.Ahluwalia, Vikas Dubey

Final Decision : Allowed

Judgement

1. Heard Mr. Manish Nigam, learned counsel for the appellants, Mr. H.S. Ahluwalia, learned Deputy Advocate General, appearing for the State-respondent Nos. 1 to 4 and Mr. Vikas Pandey, learned counsel, appearing for respondent No.5 on I.A.No.02/2022, which is an application for condonation of delay of 755 days in filing the instant writ appeal.

2. Considering the reasons assigned in the application, same is allowed and delay is condoned.

3. The respondents / writ appellants take exception to the impugned order dated 03.12.2019 (Annexure A-1) passed by the learned Single Judge in WPS No.10063 of 2019, by which the learned Single Judge has allowed the writ petition filed by the writ petitioner / respondent No.5 herein and remitted back the matter to the CEO, Zila Panchayat, Raipur to consider the case of the writ petitioner for compassionate appointment on any other post other than the teacher of the Ministerial cadre.

4. The undisputed facts of the case are that the writ petitioner / respondent No.5 had applied for the compassionate appointment on account of 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. The writ petitioner filed an application for compassionate appointment on 29.07.2015 and the same was rejected on 13.08.2015 on the ground that the writ petitioner has not passed B.Ed./D.Ed. and T.E.T. examination.

5. Learned Single Judge by the impugned order allowed the writ petition by observing as under:-

"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."

6. Mr.Manish Nigam, learned counsel for the appellants would submit that the impugned order came to be passed without notice to the appellants and that the rejection of the case of the writ petitioner by the appellants was in the year 2015 and the writ petition came to be filed in the year 2019. He would further submit that the order of the learned Single Judge for consideration of the case of the writ petitioner on any other post, other than the post of Teacher, is against the scheme of compassionate appointment. He would also submit that the learned Single Judge has committed grave illegality in allowing the writ petition of the writ petitioner / respondent No.5 herein. Therefore, the instant writ appeal deserves to be allowed and the impugned order passed by the learned Single Judge deserves to be set aside.

7. On the other hand, Mr.Vikas Dubey, learned counsel appearing for respondent No.5 would support the impugned order.

8. We have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

9. The writ petitioner / respondent No.5 had applied for compassionate appointment on account of 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 (CG).

10. From perusal of the impugned order, it transpires that the impugned order came to be passed without notice to the appellants. No opportunity of hearing

was granted to the appellants to put-forth their case before the learned Single Judge and that the rejection of the case of the writ petitioner by the appellants was in the year 2015 and the writ petition came to be filed in the year 2019. It also transpires that the order of the learned Single Judge for consideration of the case of the writ petitioner on any other post, other than the post of the Teacher, is against the scheme of compassionate appointment.

11. Considering the above-stated facts and also considering that the impugned order came to be passed without notice to the appellants and no opportunity of hearing was granted to them, the impugned order dated 03.12.2019 (Annexure A-1) passed by the learned Single Judge in WPS No.10063 of 2019 is set aside. The matter is remitted back to the learned Single Judge for considering the case afresh in accordance with law. The writ Court is requested to dispose of the matter within a period of three months from the first date of listing before the Court concerned.

12. The writ appeal is allowed to the extent indicated hereinabove.