CGHC010391502026 2026:CGHC:47093-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 1084 of 2026

Virendra Kumar Rathiya S/o. Late Raghunath Singh Rathiya Aged About 32 Years, Resident of Village- Charkhapara, Post- Bakaruma, Tahsil- Dharamjaigarh, District- Raigarh (C.G.)

... Appellant

versus

1. State of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Atal Nagar, New Raipur, District- Raipur (C.G.)
2. The District Education Officer Bilaspur, District- Bilaspur (C.G.)

... Respondent(s)

For Appellant	:	Mr. K. P. Sahu, Advocate.
For Respondent(s)/State	:	Ms. Anuja Sharma, Deputy Government Advocate.

Hon'ble Shri Krushna Ram Mohapatra, Chief Justice
Hon'ble Shri Santosh Sharma, Judge

Order on Board

***Per* Krushna Ram Mohapatra, Chief Justice**

16.11.2026

1. Heard Mr. K.P. Sahu learned counsel appearing for appellant as well as Ms. Anuja Sharma, Deputy Government Advocate, appearing for the State.

2. I.A. No. 01/2026 is an application for condonation of delay of 31 days in filing the writ appeal.

3. Learned counsel for the appellant submits that the appellant is a poor and

rustic villager residing in a remote area of the State of Chhattisgarh. After arranging the money for filing the writ appeal, he contacted his lawyer and filed the present writ appeal. In the process, a delay of 31 days occurred in filing the writ appeal. It is submitted that the delay caused in filing the writ appeal is bona fide and not intentional. Hence, he prays for condonation of the delay of 31 days in filing the writ appeal.

4. Ms. Sharma, learned Deputy Government Advocate, submits that no detailed particulars have been provided in the petition for condonation of delay for consideration. It is further submitted that no explanation has been given in the petition for condonation of delay as to when the appellant could arrange the money and contact his Advocate for filing the writ appeal. She, therefore, submits that the delay of 31 days should not be condoned.

5. Taking note of the submission that the appellant is a poor and rustic villager residing in a remote area of the State of Chhattisgarh, this Court feels that the delay of 31 days should be condoned to hear the appeal on merit. Accordingly, the delay of 31 days in filing the writ appeal is condoned.

6. The I.A. is disposed of accordingly.

7. As requested by learned counsel for the parties, the Writ Appeal is taken up for final hearing.

8. This intra-Court appeal has been filed assailing the order dated 08.07.2026 (Annexure A/1) passed by the learned Single Judge in WP(S) No. 2335/2021, whereby the writ petition filed by the appellant seeking compassionate appointment on account of the death of his father while in harness, was dismissed.

9. Learned counsel for the appellant submits that the father of the appellant, while working as an Upper Division Teacher under the District Education Officer,

Bilaspur/respondent No. 2, died on 21.08.1993. On that date, the appellant was only 28 days old. The mother of the appellant submitted an application seeking compassionate appointment with a request that one post be kept vacant until the appellant attained the age of majority. The appellant attained majority in the year 2011. However, he did not make any application for compassionate appointment immediately thereafter. It was only in the year 2018 that the appellant made an application seeking compassionate appointment on account of the death of his father while in harness.

10. It is also submitted by learned counsel for the appellant that, as per the policy of the State Government dated 10.06.1994, a post should have been kept vacant until the appellant attained the age of majority. He also relied upon the case law in ***Digeshwar vs. State of Chhattisgarh and Ors.*****, WP(S) No. 4136 of 2012**, wherein this Court directed the respondents to consider the claim of a similarly situated dependent on account of the death of a Government employee. It is his submission that, as per the policy of the State of Chhattisgarh, 10% of the posts should have been kept vacant for compassionate appointment. The application of the appellant seeking compassionate appointment was rejected vide letter dated 02.07.2018 (Annexure P/1 to the writ petition), stating that no vacant post of Assistant Grade-III to which the appellant could be appointed was available on that date.

11. It is further submitted that, as per the policy decision of the State Government, 10% of the posts of Assistant Grade-III should have been kept vacant for the appointment of dependents under the compassionate appointment scheme. This was not done in the instant case. As such, respondents have committed an illegality. The learned Single Judge failed to appreciate the same and dismissed the writ petition on the ground that the application for compassionate appointment was made after a delay of 7 years

and that the appellant had no vested right to get compassionate appointment under the policy after the lapse of more than 7 years. He, therefore, prays for setting aside the impugned order under Annexure A/1 and for a direction to the respondents to consider the case of the appellant for compassionate appointment under the policy.

12. Ms. Sharma, learned Deputy Government Advocate, submits that the father of the appellant died on 21.08.1993. Although the mother of the appellant made an application for compassionate appointment, but she was not eligible for the same as she did not possess requisite educational qualification. As per the policy, the appellant should have made an application immediately after attaining the age of majority in the year 2011. However, he preferred to remain silent and did not make an application within a reasonable time. In the year 2018, he woke up from his slumber and made an application, which was rightly rejected vide Annexure P/1.

13. It is further submitted that the post was kept vacant until the appellant attained the age of majority. Thereafter, the appellant did not have any subsisting right to claim such appointment, more particularly after the lapse of more than 7 years. The learned Single Judge relied upon the case of ***State of Maharashtra and Another Vs. Ms. Madhuri Maruti Vidhate*****,** reported in **AIROnline 2022 SC 471**, wherein the Hon'ble Supreme Court held in paragraphs No. 7 and 8 as under:-

> *"7. Thus, as per the law laid down by this Court in aforesaid the decisions, 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 ground on after a compassionate number of years from the death of the deceased employee.

8. Under the circumstances and in the facts and circumstances of the case narrated hereinabove, 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 compassionate ground after a number of years is unsustainable."

14. The learned Single Judge has also relied upon several other decisions of the Hon'ble Supreme Court and held that the family of the petitioner had survived for 25 years after the death of the deceased employee without any compassionate appointment. Compassionate appointment is made to provide financial assistance to a family in distress after the death of a Government employee. In the instant case, although the appellant attained the age of majority in the year 2011, he preferred to remain silent until 2018, when he made an application for compassionate appointment. At that point of time, no post of Assistant Grade-III was available for the compassionate appointment of the appellant. No doubt, 10% of the posts remained vacant for compassionate appointment, but an application for such appointment should be made within a

reasonable time. When the appellant himself caused an inordinate delay in making such an application, he had lost the right, if any, to get such appointment. The learned Single Judge has rightly considered the same and passed the impugned order. As such, the impugned order (Annexure A/1) does not warrant any interference.

15. Heard learned counsel for the parties and perused the material on record, more particularly, the impugned order and the documents referred to by learned counsel for the parties.

16. Taking note of the submissions made by learned counsel for the parties, as well as the respective contentions, this Court finds from the facts and circumstances of the case that the father of the appellant, who was a Government employee, died in harness in the year 1993. On the relevant date, the appellant was only 28 days old. He attained the age of majority in 2011, but, for reasons best known to him, he did not make any application for compassionate appointment within a reasonable time. Although 10% of the posts of Assistant Grade-III meant for compassionate appointment remained vacant, the appellant did not make any application for compassionate appointment immediately after attaining the age of majority. Consequently, he lost the right to seek such appointment after a lapse of more than 7 years. The law is well settled that compassionate appointment is provided to save the bereaved family of a Government employee from distress. Since the Government employee died in the year 1993 and the appellant attained the age of majority in the year 2011, he should have made such an application immediately after attaining the age of majority, when the family was allegedly in distress. The family of the appellant had survived for more than 7 years after the right accrued to the appellant to make an application for compassionate appointment. Having failed to avail such an opportunity, he cannot make a claim

whenever he so desires.

17. There might have been 10% of the posts lying vacant for compassionate appointment in the cadre of Assistant Grade-III, to which the appellant claims appointment. As submitted by learned counsel for the appellant, the appellant had not acquired the requisite qualification to obtain compassionate appointment till 2018. Only after acquiring the requisite qualification, he made an application for compassionate appointment. The authority could not have waited until the appellant acquired the required educational qualification to obtain such appointment. Even if 10% of the posts of Assistant Grade-III remained vacant, the appellant does not have any right to claim appointment against such vacant posts, when he himself delayed in making the application.

18. We have perused the impugned order meticulously. The same is well-reasoned and supported by the decisions of the Hon'ble Supreme Court. Thus, we find no infirmity in the impugned order (Annexure A/1). Accordingly, the writ appeal, being devoid of merit, is **dismissed**.

Sd/-
(Santosh Sharma)
Judge

Sd/-
(Krushna Ram Mohapatra)
Chief Justice

Preeti