



2025:CGHC:18944

AFR

HIGH COURT of CHHATTISGARH AT BILASPUR

WPS No. 6349 of 2018

Abhinay Das Manikpuri D/o Late Shri Ghanshyam Das Manikpuri Aged About 28 Years
R/o Village Balodgahan, Tahsil Gurur, District Balod, District : Balod, Chhattisgarh.

... Petitioner

versus

1 - State of Chhattisgarh Through Secretary, Department of Public Works Department,
Mahanadi Bhawan, Naya Raipur, District : Raipur, Chhattisgarh.

2 - Superintendent Engineer Public Works Department, Circle No.2, Raipur District
Raipur, District : Raipur, Chhattisgarh.

3 - Executive Engineer Public Works Department, Division Dhamtari, Raipur, District
Raipur, Chhattisgarh.

... Respondent(s)

(Cause Title is taken from Case Information System)

For Petitioner : Mr. Ravi Bhagat, Advocate

For State : Mr. Prateek Tiwari, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

25.04.2025

1) The petitioner is aggrieved by the impugned order dated 01.09.2018 (Annexure

P/1) issued by respondent No. 2, whereby the petitioner was offered

compassionate appointment to the post of Gardener ('Mali'), which is a Class-IV post. The petitioner contends that he is educationally qualified for the post of Driver, which is a Class-III post and therefore entitled to such appointment in light of the circular dated 14.06.2013 issued by the State Government.

- 2) The factual background is that the father of the petitioner, Late Shri Ghanshyam Das Manikpuri, who was working as a Chowkidar in the Public Works Department at Dhamtari, died in harness on 14.03.2018. Thereafter, the petitioner submitted an application for compassionate appointment. The application moved by the petitioner was processed and he was considered for appointment, ultimately he was issued an appointment order to the post of Gardener. The petitioner refused to give consent for the Class-IV post, and it is submitted that subsequently, respondent No.3 recommended the petitioner's name for the post of Driver. However, despite such recommendation and eligibility, he was not granted the appointment to the post of Driver, and instead, the appointment order dated 01.09.2018 was issued for the post of Gardener. The petitioner accepted the offer and joined Gardner's post.
- 3) The limited argument of Mr. Bhagat is based on point No. 7(3) of the circular dated 14.06.2013, which provides that the dependent of a deceased Class-IV employee may be appointed to a Class-III post on compassionate grounds if he or she is educationally qualified.
- 4) On the other hand, Mr. Tiwari, learned State Counsel relies upon the judgment of the Coordinate Bench of this Court in the case of ***Anusuiya Oti v. State of***

Chhattisgarh & Ors. (WPS No. 4324 of 2015), wherein it is held that once a person accepts compassionate appointment, a subsequent claim for change or up-gradation of the post is impermissible, amounting to an attempt to claim "endless compassion", which has been disapproved by the Hon'ble Supreme Court.

- 5) Mr. Tiwari has also drawn support from the decision of the Hon'ble Supreme Court in ***I.G. (Karmik) and Others v. Prahlad Mani Tripathi, (2007) 6 SCC 162***, where the Court held that once the right of compassionate appointment is exercised and exhausted, no further or second consideration for higher post arises.
- 6) Heard.
- 7) In the matter of ***Anusuiya Oti (supra)***, this Court clearly held that once a person is granted the appointment on compassionate grounds and has accepted and joined, the claim for a change or up-gradation of the post is not maintainable. Similarly, in ***Prahlad Mani Tripathi (supra)***, the Hon'ble Supreme Court held that compassionate appointment is a one-time benefit, and the beneficiary cannot seek further consideration or betterment of position on that basis.
- 8) Compassionate appointment is not a right but a concession granted under service jurisprudence to mitigate the immediate financial crisis faced by the family of the deceased government servant. It cannot be treated as a mode of regular employment nor can it be pressed for higher entitlement beyond the scope of the scheme or guidelines.

- 9) The appointment under the scheme is subject to the availability of posts, administrative discretion, and satisfaction of other procedural requirements. Though the petitioner's name was recommended for the post of Driver but the final appointment was made to the post of Gardener (Mali). The petitioner, despite disagreement, joined the said post under protest on 14.09.2020.
- 10) Applying the ratio of the above-referred cases to the present facts, once the petitioner has been appointed even under protest to the post of Gardener (Mali), the claim for up-gradation to the post of Driver is not legally sustainable. Acceptance of appointment, even under protest, amounts to exhaustion of the one-time benefit. There cannot be endless negotiation or choice in such appointments, which are an exception to the general rule of recruitment.
- 11) Further, the compassionate appointment is not a vested right, but an exception carved out by administrative policy to provide immediate support. Judicial intervention in such matters is limited, and the courts are not expected to substitute administrative decisions with their own preferences.
- 12) In light of the foregoing discussion, and the binding precedents cited above, the claim of the petitioner for up-gradation from the post of Gardener (Mali)/(Class-IV) to Driver (Class-III) is devoid of merit. Accordingly, the writ petition is hereby **dismissed**. No cost(s).

Sd/-

(Rakesh Mohan Pandey)
Judge

WPS No. 6349 of 2018

HEAD NOTE

Compassionate appointment is a concession, not a right. Once accepted, no claim for change or upgradation of post is permissible. Judicial review in such matters is limited.

अनुकंपा नियुक्ति एक रियायत है, अधिकार नहीं। स्वीकृति के बाद पद परिवर्तन या पदोन्नयन का दावा अस्वीकार्य है। ऐसे मामलों में न्यायिक समीक्षा सीमित है।