

26.11.2015

Shri L. C. Chourasia learned counsel for the petitioner.

The petitioner has filed this petition being aggrieved by order dated 4.3.2015 passed by the Collector, Chhatarpur, seeking compassionate appointment on account of the death of her mother who died while in service on 24.11.2012 on the post of L.H.V at Public Health Centre, Nowgaon, District Chhattarpur.

The petitioner applied for compassionate appointment on 22.2.2013, however, her application for compassionate appointment was rejected by the authorities by order dated 5.2.2014 as is evident from a perusal of Annexure P-5. Subsequently, the petitioner again applied for reconsideration of her case in view of the new policy for compassionate appointment notified by the State Government on 29.9.2014 stating that in view of the changed criteria in para 4.1 of the policy, the disqualification for appointment on compassionate appointment is incurred only when any member of the family is in regular service of the State, Corporation, Board, etc. It was submitted that as the petitioner's brother was working as a contractual Assistant Draftsman in the MANREGA, therefore, the disqualification that was

prescribed in para 4.4 of the policy dated 18.8.2008 would not apply to the petitioner in view of the amended criteria prescribed in para 4.1 of the new policy notified on 29.9.2014. It is stated that inspite of the relaxation of the criteria in para 4.1 of the new policy, the respondent authorities have again considered and rejected the petitioner's claim for compassionate appointment by the impugned order dated 4.3.2015.

The learned counsel for the petitioner submits that as the petitioner's brother is working on contractual basis, the petitioner's case for compassionate appointment is liable to be reconsidered and allowed in view of the amended criteria prescribed in the new policy dated 29.9.2014 and the stand of the respondents in the return being contrary to the said Clause 4.1 of the policy, deserves to be rejected.

Having heard the learned counsel for the petitioner it is observed that the petitioner's case for compassionate appointment was considered and rejected by the authorities on 5.2.2014, Annexure P-5, in accordance with clause 4.1 of the old policy dated 18.8.2008 as it existed on that date as her brother was in contractual service.

The documents on record indicate that the new policy for compassionate appointment was

notified on 29.9.2014 in which Clause 4.1 has been modified and it has been provided that a person seeking compassionate appointment would be disqualified for consideration only in cases where a member of the family is in regular service, however this Clause has come into existence after the petitioner's case had already been considered and rejected on 5.2.2014.

A perusal of Clause 12.2 of the policy dated 29.9.2014 is very specific and clear in this regard and provides that cases for compassionate appointment which had already been considered and rejected under the old policy shall not be reconsidered or reopened pursuant to the notification of the new policy.

In the circumstances, in view of clause 12.2 of the policy dated 29.9.2014, I am of the considered opinion that the respondent authorities have rightly rejected the claim of the petitioner stating that her claim cannot be reconsidered having been rejected under the old policy of 2008.

Quite apart from the above, the Full Bench of this Court in the case of **Bank of Maharashtra & Another vs. Manoj Kumar Deharia and Another**, 2010 (3) MPLJ 213, has already held that in cases of compassionate appointment it is the policy prevalent on the date of consideration of the

application which is relevant and the subsequent amendment or modification therein would not effect the validity of such consideration.

In view of the aforesaid facts and circumstances, I do not find any merit in the petition which is, accordingly, dismissed.

(R. S. JHA)
J U D G E

mms/-