



2025:CGHC:22551-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WA No. 314 of 2025**

Ganesh Nirmalkar S/o Late Gariba Ram Nirmalkar Aged About 33 Years
R/o Sbi Colony, Zone-3, Street No. 8 New Adarsh Nagar, Durg, District-
Durg (C.G.)

... Appellant(s)**versus**

1 - State Of Chhattisgarh Through Secretary, Department Of School
And Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa
Raipur, Distt.- Raipur (C.G.)

2 - Director Lok Shikshan Sanchanalaya, Indrawati Bhawan, Atal Nagar,
Nawa Raipur, Distt.- Raipur (C.G.)

3 - Collector Durg, District- Durg (C.G.)

4 - District Education Officer Durg, District- Durg (C.G.)

5 - Block Education Officer Balod, District- Durg (C.G.)

... Respondent(s)

For Appellant(s) : Mr. Jitendra Gupta, Advocate

For Respondent(s) : Mr. S.S. Baghel, Dy. G.A.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

09.06.2025

1. Heard Mr. Jitendra Gupta, learned counsel for the appellant as well as Mr. S.S. Baghel, learned Deputy Government Advocate for respondents / State.
2. This writ appeal is presented against an order dated 05.03.2025 passed by the learned Single Judge in WPS No. 2989 of 2021 (***Ganesh Nirmalkar v. State of Chhattisgarh and Others***), whereby, the writ petition filed by the writ petitioner/appellant herein was dismissed by the learned Single Judge.
3. Brief facts of the case are that deceased Smt. Meera Nirmalkar who was a divorced lady was appointed on 01.08.2005 as Shikshakarmi, thereafter, she was promoted on 21.10.2016 as Teacher Panchayat in the pay scale of 4500-125-7000. The deceased Smt. Meera Nirmalkar took divorce from her husband and later on she expired on 24.09.2018. Thereafter, the sister-in-law of deceased Smt. Shobhana Nirmalkar has moved an application for grant of compassionate appointment which was rejected by the District Education Officer, Durg on the count that there is no such provision for grant of compassionate appointment for the sister-in-law of the deceased employee, therefore, the writ petitioner / appellant herein moved an application for grant of compassionate appointment. Thereafter, the writ petitioner's application has been rejected on 25.01.2021 by the District Education Officer, Durg on the count that the deceased was a divorced lady, as such she cannot be treated as unmarried,

therefore, the claim of the writ petitioner for grant of compassionate appointment has not been considered and accordingly, it has rejected the same. Being aggrieved by the said order, the writ petitioner / appellant herein preferred WPS No. 2989 of 2021, which was rejected by this learned Single Judge vide order dated 05.03.2025. Hence this writ appeal.

4. Learned counsel for the appellant submits that the respondent has arbitrarily and wrongly rejected the claim of the appellant only for the reason that "divorced employee cannot be treated as Unmarried employee", as such provisions of Clause-6 of Policy would not apply in case of the appellant. He further submits that the respondents have failed to consider the fact that once a person is divorced, he or she are to be considered as "unmarried" and only right they can claim from the spouse is of maintenance. The learned Single Judge has failed to consider the peculiar the family background of the writ petitioner, that the deceased employee was the only bread winner of the family. Their Father had passed away in Year 1999, and their mother is not receiving any financial support i.e. pension from his services, and was completely depended on her daughter/deceased employee. The respondent as well as the learned Single Judge has failed to consider the fact that "Clause-6 provides for Compassionate appointment on death of an "Unmarried Government employee", and from bare perusal it would disclose that "On death of such Government servant who is unmarried (or is a widower and has

no son/daughter) the Brother /sister (on recommendation of the Mother/father) of such deceased government servant will be eligible for compassionate appointment", as such the appellant having the recommendation of their mother as per the policy is duly entitled for compassionate-appointment to meet out the financial-hardship. The learned Single Judge in absence of specific provisions/legislature should have considered the fact as per Section-21 of the Hindu Adoption and Maintenance Act, "Mother and the brother" falls under the definition of the "Dependents". He relied upon a judgment passed by the Hon'ble Supreme Court in case of **"X v. The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Anr,"** Civil Appeal No. 5802 of 2022, dated 05.09.2022.

5. On the other hand, learned counsel for respondents opposes the submissions made by the learned counsel for the appellant and submits that the learned Single Judge after considering all the aspects of the matter has rightly dismissed the writ petition filed by the writ petitioner / appellant herein, in which no interference is called for.
6. We have heard learned counsel for the parties and perused the impugned order and other documents appended with writ appeal.
7. From perusal of the impugned order, it transpires that the learned Single Judge has dismissed the writ petition i.e. WPS No. 2989 of 2021 vide order dated 05.03.2025, holding that bare perusal of

the consolidated circular dated 14.06.2013, particularly Clause 5 and 6, it is quite vivid that the widow and widower of the deceased government servant, son/daughter, daughter/adopted daughter as well as dependant divorced lady and adopted daughter then daughter-in-law are included in the list who are eligible for grant of compassionate. The writ petitioner being brother of the divorced sister has not been included in the list who is eligible for grant of compassionate appointment, therefore, the learned Single Judge held that respondent No. 1 has not committed any illegality and irregularity in rejecting the claim of the writ petitioner.

8. Learned Single Judge also held that even otherwise, it is well settled position of law that grant of compassionate appointment has to be strictly considered in terms of the policy/circular which has been framed by the State Government. No divergent from the policy is permissible. The learned Single Judge relied upon the judgment passed by the Hon'ble Supreme Court in the latest judgment in case of "**Canara Bank vs. Ajithkumar G.K.**" in Civil Appeal No. 255 of 2025 reported in 2025 INSC 184 and has concluded that the respondents have not committed any illegality in rejecting the claim of the writ petitioner for grant of compassionate appointment. Even otherwise, it is well settled position of law that compassionate appointment cannot be claimed in absence of any specific provision made in the policy as the compassionate appointment is a matter of policy of the employer and such employer cannot be compelled to make

compassionate appointment contrary to its policy apparently the virus or legality of the scheme is not under challenge. Even otherwise, the matter of policy can neither be open to extend interpretation nor merely supplying or subtracting words and meaning therefrom, therefore, the District Education Officer has not committed any illegality in rejecting the said application for grant of compassionate appointment of the writ petitioner.

9. Considering the submissions advanced by the learned counsel for the parties and the finding recorded by the learned Single Judge while dismissing the writ petition filed by the writ petitioner / appellant herein, we notice that the same has been rendered with cogent and justifiable reasons. In an intra-court appeal, no interference is usually warranted unless palpable infirmities are noticed on a plain reading of the impugned order. In the facts and circumstances of the instant case, on a plain reading of order, we do not notice any such palpable infirmity or perversity, as such, we are not inclined to interfere with the impugned order.
10. Accordingly, the writ appeal being devoid of merit is liable to be and is hereby **dismissed**. No cost(s).

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice