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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) 7145 of 2008**

Smt. Amrika Bai Sahu, W/o Late Vijay Ram Sahu, Aged about 42 years, R/o Sonarpara, Rajnandgaon, C.G. Presently working as peon, Forest Office Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through the Secretary, Department of forest, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Chief Conservator of Forest, Government of Chhattisgarh, Jail Road, Raipur, Chhattisgarh.
3. Additional Chief Conservator of Forest, (Adm./Non-Gazetted) Raipur, Chhattisgarh.
4. Conservator of forest, Durg Circle, District Durg, C.G.

---- Respondents

For Petitioner	:	Mr. Alok Dewangan, Counsel
For State	:	Mr. U.N.S. Deo, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03/09/2015**

1. The relief sought in the present Writ Petition is for direction to the Respondent to grant seniority on the post of appointment with effect from 24.09.1994, which is the date from which the Petitioner was initially appointed as daily wage worker. The Petitioner has also claimed relief in the nature of mandamus directing the Respondent to give the benefits under the Madhya Pradesh/Chhattisgarh Police Karmchari Varg – Asadharan Pariwar Nirvatti Vetan Niyam, 1965 (in short “the Rules, 1965”)
2. The fact relevant in the present Writ Petition is that the husband of the

Petitioner was working as forest guard at Saraipetera, District – Rajnandgaon forest division. It is said that he was murdered on 29.04.1994 in course of his duties. Subsequent to death of the deceased-husband of the Petitioner, she was granted employment as daily wage worker with effect from 24.09.1994 on which post she continued till 2006. In 2006 for the first time she filed Writ Petition No. 3672/2006 in which she claimed for relief of regular appointment in the forest department under compassionate appointment. The said Writ Petition was finally disposed on 24.07.2006, wherein this Court passed the following order

“Having heard learned counsel for the parties and having regard to the facts and circumstances of the case, without expressing any opinion on the merits of the case, the petitioner is allowed to make a detailed representation raising all her grievances to respondent No.3 within 10 days from today along with copy of this petition and in turn respondent No. 3 to decide the representation of petitioner within 60 days from the date of receipt of representation after considering all the grievances raised by the petitioner in accordance with law.”

3. Based on the said directions given by this Court in the aforesaid Writ Petition the Petitioner was granted regular employment with effect from 24.07.2006, on which the Petitioner assumed duties and since then she is working in the said post.
4. Subsequently, by the present Writ Petition which was filed on 19.12.2008 the Petitioner has sought for a direction against the Respondent firstly, grant of seniority to the Petitioner from the date she was granted appointment as daily wage worker and secondly sought for relief of grant of benefits under the Rules, 1965 claiming monetary benefits payable to the family members of an employee who died an accidental death while working in the naxalite affected areas in an encounter or meets with death while carrying out operation in the forest areas.
5. According to the Petitioner the Respondent has not granted any benefit under the said scheme which the Petitioner was otherwise entitled for except payment of Rs. 1,00,000/- (Rupees One Lakh) which was an amount under the old scheme which stood amended and enhanced to Rs. 5,00,000/- (Rupees Five Lakh) at a much later stage. Therefore, learned Counsel for the Petitioner prays for direction to the Respondent

for granting seniority to the Petitioner and payment of compensation in accordance with the Rules, 1965.

6. The Counsel for the State per contra opposing submissions of the Petitioner submits that both the prayers made by the Petitioner were misconceived to the extent that the Petitioner can not be granted benefits as sought for, of the period she was not employed with the Respondent. Admittedly she has been granted regular employment as peon on 05.01.2007 and from which date she has been granted proper seniority and benefits of Government employment. The earlier period can not be taken into consideration for the fact that the status of the petitioner till that date was that of daily wage worker, and therefore she would not be entitled for relief of the seniority for the period she was not a government employee.
7. As far as second relief sought by the Petitioner is concerned the same is not be sustainable for the reason that the enhanced amount of Rs. 5,00,000/- (Rupees Five Lakh) has been introduced by way of amendment which was brought to the Rules with effect from 29.09.1999 and prior to that it was only Rs. 1,00,000/- (Rupees One Lakh) and that Rs. 1,00,000/- (Rupees One Lakh) was given to the Petitioner as early as in the year 1996 itself and that the amended provision can not be given a retrospective effect.
8. Considering the submissions by the Counsel appearing on either side this Court is of the opinion that both the claims of the Petitioner firstly the claim of seniority for the period she was not in the service with the Respondent and secondly grant of benefits under the Rules, 1965 including benefits as per amended provision of the Scheme, are totally misconceived. The petitioner can be given seniority only from the date she has been in regular employment and like wise the Petitioner can only claim the benefits of the Scheme which was prevailing on the date of the death of the deceased husband, admittedly which has been paid to the Petitioner as is apparent from the pleading in the Writ Petition.
9. In addition to the above facts the Petition also suffers from delay and laches to the extent that death of the deceased husband occurred on 29.04.1994 and the present Writ Petition has been filed on 19.12.2008 i.e. after a period of approximately 14 years and that the Petitioner except for pleading for enhancement of benefits and provision of law, has also

not given any justified explanation for the delay which has been caused. The delay also is unexplained with the reasons while in the year 2006 the Petitioner had approached this Court in respect of grant of compassionate appointment and even then she did not find it proper to claim the benefits which she intends to claim now by way of the present Writ Petition.

10. For the foregoing reasons the Writ Petition being devoid of merits is dismissed.

Sd/-
P. Sam Koshy
Judge