

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) No. 7361 OF 2010

Ku. Saraswati Paikra D/o Late Balsai Paikra, aged about 23 years, R/o Village Harradeepa, Post Nanhesar, Tahsil Bagicha, Distt. Jashpur (CG)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Tribal Welfare Development Department, D.K.S. Bhawan, Raipur (C.G.)
2. Assistant Commissioner, Tribal Development Jashpur, Distt. Jashpur (C.G.)
3. Block Education Officer, Bagicha, Distt. Jashpur (C.G.)

... Respondents

For Petitioner	:	Mr. A.N. Pandey, Advocate.
For Respondent-State	:	Mr. Prafull Bharat, Additional Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/12/2015

1. In the present writ petition the challenge is to the order dated 4.8.2010, Annexure P-1, whereby the claim of the Petitioner for grant of compassionate appointment has been rejected by the Respondents on the ground that the same has been moved after the prescribed period of time under the scheme for compassionate appointment.

2. According to the Petitioner her father, Late Balsai Paikra was working as Headmaster with the Respondents and died in harness on 26.2.2007. Immediately after the death of the father of the Petitioner, her brother, Dev Sai Paikra, had moved an application for grant of compassionate appointment. The said claim application was rejected by the Respondents on 2.7.2007 which is Annexure P-3 to the writ petition, on the ground that there were two unmarried earning members in the family and therefore the claim for compassionate appointment was

rejected. The said rejection of the claim of compassionate appointment of Dev Sai Paikra was never questioned or challenged by him any further.

3. Subsequently, in the year 2010 the present Petitioner has moved an application for grant of compassionate appointment which has also been rejected by the Respondents on the ground of delay, on 4.8.2010 vide Annexure P-1. According to the Petitioner, when the claim application earlier was rejected the finding of the Respondent authorities that two of the sisters of the Petitioner being unmarried was in correct and that they were already married and therefore subsequently the Petitioner had moved the claim application which has been rejected.

4. According to the Counsel for the Petitioner, the Respondents ought to have considered the case of the Petitioner ignoring the period of limitation considering the fact that the two employed persons in the family were in fact married persons and there were nobody to sustain the family.

5. Counsel for the Respondent-State however opposes the petition on the ground that the petition deserves to be rejected on the ground firstly that the claim application of the Petitioner was rejected only on the ground of delay and laches which is evident from the facts stated in the petition itself as she has moved her claim application itself after more than 3 years from the date of death of the deceased employee. Secondly, the claim of the brother of the Petitioner having already been rejected and the rejection order has attained finality as it was not challenged, no benefit from the said rejection order can be granted to the Petitioner.

6. Considering the facts and circumstances of the case and also taking note of the fact that in the family of the Petitioner as per the particulars given by the brother of the Petitioner, namely Dev Sai Paikra, itself on the date of death of the deceased employee there were two other unmarried earning members in the family and which has not been disputed or questioned by Dev Sai Paikra proves the fact that the contention of the State was not wrong. Accordingly, the rejection of the claim of the Petitioner cannot be said to be bad in law.

7. The fact that there were two earning members in the family goes to prove that the family is not facing a penury or destitute and that there were sufficient means to sustain. Financial condition is a relevant condition for grant of compassionate appointment. If there is an objective finding of the authorities in not granting compassionate appointment, the same cannot be lightly interfered. [see 2006 (7) SCC 350 (Union Bank of India and others v. M.T. Latheesh)].

8. The writ petition being devoid of merit is dismissed accordingly.

Sd/-
(P. Sam Koshy)
Judge