

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2465 of 2015

- Kumari Mamta Gore D/o Late Dori Lal Gore Aged About 22 years R/o- Village & Post- Talikot, P.S. & Tahsil- Kharsiya, Civil & Revenue District- Raigarh (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Education, Mahanadi Bhawan New Raipur, District Raipur (Chhattisgarh).
2. Collector, Raigarh, District- Raigarh (Chhattisgarh)
3. Assistant Commissioner, Tribal Development, Raigarh, District- Raigarh (Chhattisgarh)
4. Chief Executive Officer Janpad Panchayat Kharsiya, District- Raigarh (Chhattisgarh)

---- Respondents

For Petitioner	Shri F.S. Khare, Advocate
For Respondent/State	Shri Shashank Thakur, GA

Hon'ble Prashant Kumar Mishra

Order On Board By

13/07/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has prayed for quashment of the orders dated 04.12.2014 (Annexure-P-4), 21.01.2015 (Annexure-P-5), 17.03.2015 (Annexure-P-6) and for a direction to the respondents to appoint the petitioner on compassionate ground. The petitioner's father was working as Head Master in the Department of Tribal Development,

Raigarh, at the time of his death on 19.03.2014. The petitioner moved an application for grant of compassionate appointment before the Assistant Commissioner (Tribal Welfare), Raigarh. By Annexure-P-4, the Chief Executive Officer, Janpad Panchayat, Kharsiya considered her application and informed the petitioner that for appointment on the post of Assistant Teacher (Panchayat), a candidate has to undergo B.Ed/D.Ed Training Course, therefore, if the petitioner has any such qualification, she should submit certificate otherwise she would not be entitled for appointment as Assistant Teacher (Panchayat). The Assistant Commissioner (Tribal Development), Raigarh informed the petitioner on 21.01.2015 (Annexure-P-5) that as per the government instructions dated 14.06.2013, a dependent of a government servant, who died in naxal violence, would be entitled for compassionate appointment even if any other member in the family is already a government servant, therefore, since in the petitioner's family, two government servants are already working and her father has not died in naxal violence, the petitioner is not entitled for compassionate appointment. Similar communication was issued to the petitioner vide Annexure-P-6.

3. Shri Khare, learned counsel for the petitioner would submit that the Assistant Commissioner has wrongly construed Clause 12 of the circular dated 14.06.2013, which applies to the government servants, who died in naxal violence.
4. Perusal of the government instructions/guidelines dated 14.06.2013 would make it apparent that only such dependent of a government servant, who has died in naxal violence, would be entitled for compassionate appointment despite the fact that any other member of the family is already a government servant. This makes it clear that in

cases of other government servants dying in harness, a dependent would not be entitled for compassionate appointment, if any other dependent in the family is already a government servant.

5. At this stage, Shri Khare, learned counsel for the petitioner would submit that although her brothers are government servants, yet the petitioner had already separated from her brothers, therefore, the rigour of Clause 12 of the government policy would not be applicable to her. It appears, such plea was never raised before the Assistant Commissioner or the Janpad Panchayat. Even otherwise, the plea would require determination of the disputed question of fact, which cannot be gone into in writ jurisdiction. There is no material before this Court even to prima-facie conclude that the petitioner is living separately. The affidavit filed by the petitioner is self serving. No document having any credential that would clinch the issue has been submitted with the writ petition.
6. In the matter of **State of H.P. and others vs. Rajesh Kumar¹** and **SAIL and another vs. Awadhesh Singh and others²**, the Supreme Court has held that the denial of compassionate appointment to a person, whose family members are already employed is fully justified.
7. For the foregoing, there is no substance in the writ petition, it fails and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala

1 (2001) 9 SCC 174

2 (2001) 10 SCC 621