

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3153 of 2007**

- Smt. San Kumari W/o late Sadaram Nair, aged about 47 years, R/o Village Lau, Tehsil Rajpur, PS Rajpur, Distt. Surguja (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of Tribal Welfare, DKS Bhawan, Raipur (CG).
2. The Collector, Surguja at Ambikapur, Surguja (CG).
3. The Upper Collector (Shri Taman Singh Sonwani) Ambikapur, Surguja (CG).
4. The Assistant Commissioner, Department of Tribal Welfare, Ambikapur, , Distt. Surguja (CG).
5. Block Education Officer, Block Rajpur, Distt. Surguja (CG).
6. Sushil Kumar Nair S/o late Sadaram Nair, posted as Peon at the office of the Chief Executive Officer, Janpad Panchayat, Pratappur, Surguja (CG).
7. Smt. Brijo Kindo W/o Asharfi Patel (Second wife of late Sadaram Nair) residing at Surajpur as Aanganbadi sahayika under Mahila and Bal Vikas Adhikari, Surajpur, Distt. Surguja (CG).
8. Anil Kumar Nair S/o late Sadaram Nair, aged about 27 years, occupation Police Constable, Posted at police station Kotmi, Distt. Bilaspur (CG).

---- Respondents

For Petitioner	Shri Rakesh Pandey, Advocate.
For State/Respondents No.1 to 5:	Shri Chandresh Shrivastava, Panel Lawyer.
For respondents No.6 to 8	Ms. Sharmila Singhai, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****15/02/2016**

1. Challenge to the present petition is the order dated 02.01.2007 whereby the respondent No.6 has been given compassionate appointment by the

respondents/State.

2. The grievance of the petitioner is that she is the first wife of the deceased employee Sadaram who was working with the respondents as Assistant Teacher (Superintendent), Pratappur Ashram at Block Rajput, Surguja.
3. According to the petitioner, her husband Sadaram had died in harness on 02.12.2002. She immediately moved an application for compassionate appointment, but the same was denied by the respondents. The respondent No.7 is stated to be the second wife of deceased Sadaram. The respondents No.6 & 8 are sons on account of her relation with the deceased employee. According to the petitioner, she moved an application before the Collector on 10.06.2004 for grant of succession certificate. However, during pendency of her application, the respondent No.7 also moved an application before the Additional Collector for grant of compassionate appointment and in the application filed before the Additional Collector on behalf of respondent No.7, an order was passed on 29.10.2004 declaring the respondent No.7 as successor of deceased Sadaram and based upon the said succession certificate, the terminal benefits payable to the deceased employee was paid to the respondent No.7. Subsequently, the respondent No.6 was granted compassionate appointment also vide order dated 02.01.2007. It is thereafter this petition has been filed challenging the appointment order dated 02.01.2007 issued in favour of respondent No.6 as also the certificate of succession issued by the Additional Collector on 29.10.2004 in favour of respondents No.7
4. From the pleadings and submissions itself it is quite clear that after the succession certificate was issued in favour of respondent No.7 on 29.10.2004, the petitioner was not having any grievance against the same. She also did not

file any objection against terminal benefits being granted to respondent No.7.

5. It appears that the petitioner was aggrieved of her not being granted compassionate appointment on death of deceased employee in spite of being being the first wife which she has not been able to establish before the any court of law nor has she admittedly challenged the succession certificate granted in favour of the respondent No.7 on 29.10.2004.
6. Even otherwise, the present petition has got many disputed question of facts which cannot be adjudicated upon by invoking the writ jurisdiction which can only be decided after recording the evidence oral as well as documentary. The same is not permissible under Article 226 of the Constitution of India. The present petition also deserves dismissal on the ground of delay and laches for the reason that the petitioner after the order of succession certificate granted on 29.10.2004 in favour of respondent No.7, did not challenge the same at any point of time. She had sufficient time to raise objection against the said certificate in favour of respondent No.7. After a period of more than three years from the date of issuance of succession certificate, the present writ petition has been filed.
7. For the foregoing reasons, the writ petition fails and is accordingly dismissed.
No order asto costs.

Sd/-
(P.Sam Koshy)
JUDGE