

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 5391 of 2006**

1. Smt. Malti Bai Yadu W/o Shri Anant Ram Yadu aged about 40 years R/o Amdi Post Gariyaband District Raipur (Chhattisgarh)
2. Ku. Bhuneshwari Yadu aged about 37 years D/o Late Mehattar Ram Yadu R/o village and Post Fingeshwar Tahsil Rajim District Raipur (Chhattisgarh)
3. Smt. Shailendri Yadu W/o Rama Yadu aged about 33 years R/o village and Post Fingeshwar Tahsil Rajim District Raipur (Chhattisgarh)
4. Vijay Kumar Yadu aged about 24 years S/o Late Mehattar Ram Yadu
5. Ajay Kumar Yadu aged about 19 years S/o late Mehattar Ram Yadu
6. Dukhin Bai Yadu aged about 60 years Wd/o Mehattar Ram Yadu
No.4 to 6 village and Post Fingeshwar Tahsil Rajim District Raipur (Chhattisgarh)

---- Petitioners**Versus**

1. State of Chhattisgarh through Secretary Department of Co-operative Mantralaya D.K.S. Bhawan Raipur (Chhattisgarh)
2. Additional Registrar Co-operative Society Chhattisgarh Raipur (Chhattisgarh)
3. Joint Registrar Co-operative Society Chhattisgarh Raipur (Chhattisgarh)
4. Deputy Registrar Co-operative Society Chhattisgarh Raipur (Chhattisgarh)
5. Rajim Vikashkhand Sahakari Vipadan Sanstha Maryadit Fingeshwar Tahsil Rajim District Raipur (Chhattisgarh)
Through Prabandhak/Manager Rajim Vikashkhand Sahakari Vipadan Sanstha Maryadit Fingeshwar Tahsil Rajim District Raipur (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Raghvendra Pradhan, Advocate.
For Respondent/State	:	Shri Prafull N. Bharat, Additional Advocate General.
For Respondent No.5	:	None.

Hon'ble Shri Navin Sinha, Chief Justice
Order on Board

21/01/2016

1. No one appears on behalf of Respondent No.5 despite valid service of notice.
2. The original Petitioner has been deceased on 8.3.2008 apparent from order dated 9.2.2011. The application for substitution by his legal heirs has been allowed on the same date.

3. Learned Counsel for the Petitioners submits that the deceased was a Chowkidar on a salary of Rs.2289.50 per month. He was illegally dismissed from service on 30.1.1999 without any show cause notice or any allegations against him, much less any proceedings. By order dated 26.6.2001, The Deputy Registrar Co-operative Societies, Raipur held the removal to be bad and directed reinstatement. The appeal against the same preferred by Respondent No.5 was wrongly allowed on 11.1.2005 by the Joint Registrar and Petitioner's second appeal has wrongly been dismissed by the Additional Registrar.

4. Learned Additional Advocate General assisting the Court submits that paucity of funds and inability to pay salary may be a justifiable ground for termination.

5. The order of the Deputy Registrar dated 11.1.2005 in appeal preferred against the order for reinstatement dated 26.6.2001 is cryptic and non-speaking and does not assign any reason when it arrives at the conclusion that the dismissal was in accordance with law. The dismissal of the second appeal preferred by the Petitioner on the ground of limitation, in the facts of the case considering that he held the post of Chowkidar which is a Class-IV post, does not meet approval of the Court as the laws of limitation are not technicalities to be invoked to defeat substantive justice. The Respondents have not established that no discrimination had been made while terminating on grounds of paucity of funds and no person junior to the Petitioner had remained in service.

6. The Petitioner is held entitled to arrears of salary from 30.1.1999 to June, 2001 at the rate of 2289.50 per month. It shall be open for the Petitioner to represent for any other service dues that may have been payable to the deceased in consequence of termination order having been held to be bad, if not already paid.

7. The order to be complied with within a maximum period of three months from the date of receipt and/or production of a copy of this order.

8. The writ petition stands disposed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE