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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1310 of 2016**

Smt. Neela @ Leela Prajapati, age 32 years, D/o Late Shri Sukhan Kumhar, W/o Shri Devlal Prajapati R/o village Dharti para, Post Chungadi, Tahsil Bhaiyathan, PS Vishrampur, [District Surajpur wrongly mentioned in impugned order] Civil and Revenue District and District Suruguja, Chhattisgarh.

---- Petitioner**Versus**

1. Union of India, Through the General Manager (GM) SEC Rly. Zonal Office Building, Bilaspur, Civil and Revenue District and Bilaspur, Chhattisgarh.
2. Divisional Railway Manager (DRM) SEC Rly. Office of Divisional Railway (DRM Office) Raipur Civil and Revenue District and Raipur, Chhattisgarh.
3. APO Through Sr. Divisional Personnel Officer, Section Engineering Department, SEC Rly, Raipur, Civil and Revenue District and Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri J.A.Lohani, Advocate.
For Respondents	: Shri Abhishek Sinha and Ms. S. Harshita, Advocates.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P Sam Koshy, J.

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****04/04/2017**

1. This writ petition under Article 227 of the Constitution of India is against a decision of the Central Administrative Tribunal, refusing to uphold the Petitioner's plea that she is entitled to compassionate appointment on account of the death of her father.

2. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents.
3. Petitioner's father died on 19.06.2011. The request for compassionate appointment of the Petitioner was rejected by the Respondent-Establishment and communicated to the Petitioner and her mother in 2012. The original application from which this writ petition arises was filed in 2015. The Tribunal noted that the application before it was barred by limitation.
4. The aforesaid position notwithstanding, it is the admitted case that the Petitioner is a married woman. There is no circumstance pointed out in the pleadings to show that she was dependent on her father rather than on her husband. The Establishment produced materials before the Tribunal to show that the mother of the Petitioner was staying somewhere else and that the Petitioner, a married daughter of the deceased was not dependent on her late father. The voters list and the medical card were taken into consideration by the Tribunal. The findings of fact rendered by the Tribunal in that regard cannot be treated as perverse or unavailable on the record, warranting visitation under Article 227 of the Constitution of India. Unless there is clear and reliable evidence as to dependency of a particular child on the deceased government employee, it is impermissible to direct or make a compassionate appointment. We are fortified, on this principle of law, by the decision of the High Court of Kerala in *Superintendent, RMS v. Kavitha K. Francis*, rendered on 26.03.2013 in O.P (CAT) No.1192 of 2013.
5. Though, the learned counsel for the Petitioner points out that the daughter had obtained a share in the pension, we are of the view that it is not decisive when it comes to a matter of compassionate appointment. A share given to one of the heirs in the pension is a matter which has to be

worked out as between the sharers. That will not in any way bind the Establishment to provide compassionate appointment to any among the heirs without reference to the question as to dependency on the deceased, which is the crucial issue in claims for compassionate appointment.

6. For the aforesaid reasons, we cannot but agree with the decision rendered by the learned Tribunal. This writ petition therefore fails.
7. In the result, the writ petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE