

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 5 of 2018**

- Miss Babita Netam D/o Late Hadoram Netam Aged About 22 Years Wrongly Mention As Netram, R/o Village Pendraavan, Post Vishrampur, Tahsil Baderaj, District Kondagaon Chhattisgarh.

---- Appellant**Versus**

1. The State Of Chhattisgarh Kondagaon, District Kondagaon Chhattisgarh.
2. Collector, Kondagaon, District Kondagaon Chhattisgarh.
3. District Education Officer, Post Kondagaon, District Kondagaon Chhattisgarh.
4. Principal Government Higher Secondary School Bamhani, District Kondagaon Chhattisgarh.
5. Smt. Kavita Netam, W/o Late Dilip Kumar Netam, R/o Village Pendraavan Tahsil Vishrampur, District Kondagaon Chhattisgarh.

---- Respondents

For Appellant	:	Shri Parag Kotecha, Advocate.
For Respondents No.1 to 4:		Shri U.N.S. Deo, Government Advocate.
For Respondent No.5	:	Shri Kanwal Singh Baghel, Advocate.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice Sharad Kumar Gupta****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****05.03.2018**

1. Heard the learned counsel for the Appellant/Writ Petitioner, the learned Government Advocate for Respondents No.1 to 4 and the learned counsel for the 5th Respondent.
2. The Appellant is the sister of Dilip Kumar Netam who died in harness while

serving the Government. The 5th Respondent is his widow. The Appellant was appointed on compassionate ground, stated to have been, with the consent of the 5th Respondent-widow. Thereafter, the 5th Respondent objected to the appointment of the Petitioner/Appellant. That resulted in the Government deciding to remove the Appellant from service. The learned Single Judge has upheld that decision and Appellant/Writ Petitioner's challenge has been repelled. Hence, this writ appeal.

3. It is not in dispute that there is a policy dated 14.06.2013 which applied at the time of the death of Dilip Kumar Netam. It is the Scheme for compassionate appointment. It provides the modality that State would follow to make such an appointment. The learned Single Judge adverted to Clauses 5 and 6 of that Scheme. The learned Single Judge held that Clause 5 enumerates those persons who could be appointed on compassionate ground. The sister of a married Government servant who died in harness is not included in that list. Therefore, Clause 5 of the policy does not apply in favor of the Appellant. Clause 6 applies only to the dependents or relatives of unmarried Government servant who die in harness. That clause could not apply to anybody claiming compassionate appointment referable to the death of Dilip Kumar Netam, who admittedly had married to 5th Respondent. For these reasons, we do not find any ground to hold that the impugned judgment of the learned Single Judge resting on the correct interpretation and application of Clauses 5 and 6 of the policy documents could be treated as unsustainable.
4. Be that as it may, the learned counsel for the Appellant argued that the Clause 20 of the Scheme provides that once a person has been appointed on compassionate ground referable to the death of a Government servant who died in harness, no other dependent could make a claim. That clause is to the effect that there cannot be more than one compassionate appointment in relation to the death of one person who is a Government servant and who

unfortunately died in harness. What is sought to be prevented through Clause 20 of the Scheme is compassionate appointments being given to more than one person with reference to one Government servant who died in harness. That clause does not apply to case in hand.

5. The appeal, therefore, fails. In the result this writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge