

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 2081 OF 2011**

• Smt. Pushp Lata Netam, aged 30 years, W/o Late Shri Prabhu Lal Netam, Ravindra Nath Tagore, Ward No.12, Shiv Mandir Road, Thana Kotwali, Jagdalpur Bastar (CG) **... Petitioner**

versus

1. The State Government of Chhattisgarh, through the Secretary, School Education Department, DKS Bhawan, Raipur (CG)
 2. District Education Officer, District Jagdalpur (CG) **... Respondents**

For Petitioner	:	Mr. Ajay Shrivastava, Advocate.
For Respondents	:	Mr. Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/07/2018

1. Challenge in the present writ petition is to the order, Annexure P-1, dated 20.3.2017 whereby the claim of the petitioner has been rejected by the respondents only on the ground that she has not moved her claim application within three months from the date of death of deceased employee, i.e., her late husband, namely, Prabhu Lal Netam.

2. Brief facts of the case are that the husband of the petitioner was working with the respondents as Assistant Teacher in the Education Department. He died on harness on 18.7.1999. He died just after 15 days of his marriage to the petitioner. After his death, the petitioner i.e. the widow of the deceased employee moved her claim application for the first time on 1.12.2000. However, because of the bifurcation of the State of Chhattisgarh and the subsequent developments, the application of the petitioner was not considered as is stated by the petitioner.

3. Further, in between, the respondent-State of Chhattisgarh took a decision that they would consider the claim for compassionate appointment of only those persons who had died subsequent to the creation of the State of Chhattisgarh and would not consider the claim of the deceased employees who had died working under the erstwhile State of Madhya Pradesh.

4. Subsequent to it, a bunch of writ petition was filed before the Chhattisgarh High Court by the widow/legal representatives of those deceased employees who had died immediately before creation of the State of Chhattisgarh and who were working within the territories of the State of Chhattisgarh and the High Court decided the writ petition in favour of those claimants (those petitioners) and held that the State of Chhattisgarh would be required to consider all those cases of compassionate appointment where the deceased employee had died within three years from the date of creation of the State of Chhattisgarh, *that is*, all those claim applications which have been filed between 1.11.1997 to 31.10.2000 and thereafter.

5. Undisputedly, the petitioner herein had moved her first application for grant of compassionate appointment on 1.12.2000, the fact which stands admitted in the reply of the State of Chhattisgarh. Subsequently, as no decision was made the petitioner again moved an application on 1.6.2006 after the State Government had issued fresh guidelines and amendments to the claim for compassionate appointment applicable in the State of Chhattisgarh, vide circular dated 2.2.2006. In the said circular dated 2.2.2006, the Government of Chhattisgarh as a policy decision had decided to consider all those cases for compassionate appointment where the deceased employees were working within the territories of the State of Chhattisgarh immediately three years prior to 1.11.2000 onwards, i.e., from 1.11.1997 to 31.10.2000.

6. Pursuant to the said policy, the petitioner again moved an application to the respondents on 12.3.2007 as a reminder of her earlier claim application, which stood rejected vide the impugned order, Annexure P-1, whereby it has been held that the claim application since it has been filed after a period of three months from the date of death of deceased employee it cannot be processed and the same has been rejected.

7. This action on the part of the respondents seems to be unreasonable and arbitrary. Once when as per the policy decision of the State Government, dated 2.2.2006, it has been as a policy decision accepted by the State Government that they shall consider all those application for compassionate appointment pending since 1.11.19997 to 31.10.2000 and subsequently the petitioner's application which was originally filed on 1.12.2000 since it was not rejected as per the contentions of the petitioner the authorities ought to have decided the same in the light of the circular dated 2.2.2006. Having not done so, the same deserves to be held to be bad in law and is also set aside/quashed.

8. Needless to mention, subject to the petitioner filing an affidavit before the competent authority that the petitioner has in between not married again to someone else, the respondents are directed to consider and proceed with the claim application of the petitioner for grant of compassionate appointment, as per the circular then prevailing, provided she fulfills all other eligibility criteria, except for the limitation aspect which stands set aside/quashed by this Court.

9. Let this exercise be completed within an outer limit of four months from the date of receipt of certified copy of this order. It shall be the responsibility of the petitioner to place the order of this Court before the competent authority promptly.

10. The writ petition stands allowed and disposed of accordingly.

Sd/-

(P. Sam Koshy)
Judge