

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2830 of 2018

1. Smt.Rekha Mishra W/o Late Anand Mishra, aged about 39 years.
2. Aryan Mishra S/o Late Anand Mishra, aged about 12 years.
3. Aarom Mishra S/o Late Anand Mishra, aged about 10 years.

Petitioners No. 2 & 3 are minor, through their natural guardian mother Smt.Rekha Mishra.

All R/o BTI Road, Opposite Adiwasi Hostel, Mahasamund, District Mahasamund (CG).

---- Petitioners

Versus

1. State of Chhattisgarh, through its Secretary, Department of Education, Mantralaya, Mahanadi Bhawan, Naya Raipur.
2. The District Education Officer, District Mahasamund.
3. Smt.Surekha Mishra Wd/o Late Anand Mishra, aged about 45 years, R/o Rameshwar Nagar, Bhanpuri, PO Birgaon, Raipur, District Raipur (C.G.).

---Respondents

For petitioners	:	Shri Anjeenesh Shukla on behalf of Shri B.P.Sharma, Advocate.
For State	:	Shri Sangharsh Pandey, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/04/2018

1. The present Writ Petition has been filed seeking direction to the respondents to consider the case of the petitioner No.1 for compassionate appointment and also for grant of pensionary benefits.
2. The facts of the case in brief is that one Anand Mishra was working with the Educational Department of the respondent/State and died in harness on

21/09/2014. Subsequent to his death, there was a dispute arose between two ladies, one Smt. Surekha Mishra and other is Smt. Rekha Mishra. The deceased employee is said to have had one daughter whereas Smt. Rekha Mishra – the petitioner No.1 with the deceased employee had two sons. There was a dispute in respect of the claim of death-cum-retial dues and the case for succession was filed which finally stood adjudicated in two civil revisions i.e. Civil Revision Nos. 172/2017 and 181/2017 vide a common judgment dated 12/02/2018. Vide the said judgment the High Court has held that the two childrens born from the petitioner No.1, Smt.Surekha Mishra – the respondent No.3 in the present Writ Petition, the childrens born from Smt. Surenkha Mishra and the mother of the deceased employee are all entitled for two succession claim receivable on the death of deceased employee. The petitioner No.1 was not granted any relief and the distribution of share was to be made in equal proportion.

3. The prayer of the petitioner is that the petitioner No.1 may be considered for compassionate appointment and for pensionary benefits.

4. On a specific enquiry being put to the learned counsel for the petitioner as to whether there is any dispute that the respondent No.3 was not the first wife of the deceased employee he fairly accepted that, admittedly she was the first wife but she was not living with the deceased employee on the date of his death and the relationship between the two were not cordial and infact the deceased employee was staying with the present petitioner and childrens.

5. Since there is no dispute so far as the fact that the respondent No.3 is the widow and the first wife of the deceased employee and there is no specific documents to show that the marriage between the two had been dissolved from any competent court of law. The respondent No.3 would have to be considered as the wife of the deceased employee and accordingly she would be the first person to get the claim for compassionate appointment which the respondent department has also granted in this case. The order of appointment of the respondent No.3 is not under challenge. Even otherwise, if we look into the order passed in two civil revisions decided by this Court, the petitioner No.1 has not been granted any relief by the High Court. On the contrary the claim of respondent No.3 and her childrens has been protected even in the said succession dispute.

6. Given the aforesaid facts and circumstances of the case this Court does not find any strong case made out by the counsel for the petitioners at this juncture to claim for compassionate appointment.

7. The Writ Petition thus being devoid of merits deserve to be and is accordingly dismissed.

8. So far as any other dispute between the parties are concerned, the petitioner has the option of availing other remedies available to her.

9. The Writ Petition accordingly stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE