

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3450 of 2019

1. Vikas Tirkey S/o Late Shri Nazaryus Tirkey Aged About 32 Years R/o Village Chhuritoli, P.S. Kansbela, Tahsil- Kunkuri, Disrtict- Jashpur, Chhattisgarh., District : Jashpur, Chhattisgarh
2. Ku. Ibha Tirkey D/o Late Shri Nazaryus Tirkey Aged About 30 Years R/o Village Chhuritoli, P.S. Kansbela, Tahsil- Kunkuri, Disrtict- Jashpur, Chhattisgarh., District : Jashpur, Chhattisgarh
3. Ku. Mamta Tirkey D/o Late Shri Nazarus Aged About 26 Years R/o Village Chhuritoli, P.S. Kansbela, Tahsil- Kunkuri, Disrtict- Jashpur, Chhattisgarh., District : Jashpur, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Its Secretary, Deparment Of Panchayat And Rural Development, Mahanadi Bhavan, Village Rakhi, New Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Madhya Pradesh Through Its Secretary, Department Of Panchayat And Rural Development, Vallabh Bhavan, Bhopal, Madhya Pradesh., District : Bhopal, Madhya Pradesh
3. Secretary Department Of General Administration, Mahanadi Bhavan, Village Rakhi, New Raipur, Disrict- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

4. The Director Department Of Panchayat And Rural Development, Indrawati Bhavan, Village Rakhi, New Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Yogesh Pandey, Advocate
For State	:	Mr. Rahul Mishra, Dy. GA

Hon'ble Shri Justice P. Sam Koshy
Order on Board

08/05/2019

1. The claim of the petitioner in the present writ petition is for grant of compassionate appointment and also for grant of retiral dues including pensionary benefits to the petitioners.
2. According to the petitioners there father was working in the unified Madhya Pradesh as an Auditor and he has subsequently been allocated to the State of Chhattisgarh vide order dated 10/10/2002. According to the petitioners since their father is missing since then, it has to be presumed that he stands died and as such the petitioners would be entitled for the retiral dues and also other benefits that they would be entitled for.
3. On a query being put, counsel for the petitioner fairly concedes that first complaint of missing was lodged on 17/06/2002 i.e. the period much before the date of allocation to the State of Chhattisgarh. In other words, father of the petitioners went missing in the State of Madhya Pradesh. Moreover, perusal of the records would show that

there is not decree of civil death obtained by the petitioners through any competent Court of law. In the absence of all these, the present writ petition in its present form would not be sustainable and same stands rejected. Reserving the right of the petitioners to obtain the decree of Civil death first and thereafter try to make their claim. Leaving open the issue whether the claim would have to be settled by the State of Chhattisgarh or Madhya Pradesh for the reason that factual matrix does not disclose whether the father of the petitioners on allocation had joined Chhattisgarh so as to treat him as an employee of State of Chhattisgarh.

4. With the aforesaid liberty, the present writ petition stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit