

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.3755 OF 2019**

Smt. Kusumkali Bharti D/o Late Shri Murahu Ram Bharti Aged About 48 Years Presently Posted as Cook, District Hospital, Raigarh, District Raigarh Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Public Health and Family Welfare, Mantralaya Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. Commissioner Public Health And Family Welfare, Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.
3. Chief Medical and Health Officer Dhimarpur Chowk, Raigarh District Raigarh Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Amrito Das and Shri K. Rohan, Advocates.
For Respondent-State	:	Ms. Sunita Jain, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16.05.2019

1. The present writ petition has been filed with a prayer to issue a direction to the respondents to grant seniority to the petitioner from the date of her initial appointment with the respondents.
2. The facts of the case is that, the petitioner's father was a regular employee working as Male Health Worker who died in harness and thereafter the petitioner moved an application for compassionate appointment which was accepted and the petitioner was granted compassionate appointment as Cook under work charged contingency paid establishment. The petitioner was also paid salary from the contingency fund. The petitioner continued to work on the said post when she was regularized by the State Govt. in the year, 2008 granting regularization w.e.f. 18.08.2005.
3. The petitioner has now filed this petition alleging that the initial appointment given to the petitioner as contingency paid employee was illegal and unjustified as the petitioner under then prevailing scheme for

compassionate appointment was entitled for appointment on regular basis.

In view of the same, the petitioner submits that now that she has been regularized by the department, she should be given seniority from the date of her initial appointment i.e. from the year, 1995 onwards.

4. At the outset, this court is not inclined to entertain the writ petition for the reason that the petitioner was given appointment under the erstwhile State of Madhya Pradesh wayback in January, 1995. At the time of appointment of the petitioner itself it was evidently clear that the appointment of the petitioner was under the contingency establishment and the salary would be paid from the contingency fund. The petitioner with wide open eyes accepted the appointment and worked on the said post for about 13 years when the State has regularized her services w.e.f. 18.08.2005. The present writ petition now has been filed after about 25 years of her initial engagement. The fact that the petitioner did not challenge her appointment in the contingency establishment at the initial stage or within the reasonable time, goes to draw a strong inference that the petitioner was not aggrieved by the decision of the State Govt. and was quite happy with the appointment that she got then. The petitioner worked with the establishment for almost 2 and ½ decades when she now has thought of seeking seniority from the initial date of appointment.
5. This court, therefore, is of the opinion that the petitioner at the first instance itself had acquiesced of her right to question the nature of appointment that was provided and which the petitioner now would not be entitled to challenge after a period of about 25 years.
6. The writ petition therefore does not have much force and the same stands rejected.

Sd/-

(P. Sam Koshy)
Judge