

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5051 of 2019**

Kishore Das S/o Late Shri Nohar Das, Aged About 39 Years, R/o
Village - Jarwe, Tehsil Janjgir, District Janjgir Champa, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Water Resource Department (Irrigation) Mahanadi Bhavan, Mantralaya, New Raipur Chhattisgarh
2. The Superintendent Engineer, Mini Mata Dam Division, Kharsia, District Raigarh, Chhattisgarh
3. The Chief Engineer, Minimata (Hasdev) Bango Pariyojna, Bilaspur Chhattisgarh
4. The Collector, District Janjgir Champa, Janjgir Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Alok Pandey, Advocate.
For State	:	Mr. Samir Behar, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****10.07.2019**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 13.01.2017 whereby the respondents have questioned the impugned order so far as the petitioner not being granted the compassionate appointment is concerned.
2. Perusal of the record would show that the father of the petitioner late

Nohar Das was working under the respondents as a daily wage employee. He died in harness on 29.05.2003. Thereafter, the petitioner moved an application which was rejected by the respondents on the ground that the father of the petitioner was not in regular employment in the Department. The petitioner immediately filed a writ petition i.e. WP No. 4581 of 2004. The said writ petition came up for hearing on 03.09.2015. On 03.09.2015 this Court while disposing of the writ petition directed the State Govt. to reconsider the case of the petitioner after due verification of the factual aspect so far as the eligibility and the entitlement of the petitioner is concerned. It was also expected that the respondents would consider the case of the petitioner in the light of the decision of this Court in the case of Smt. Puna Bai Vs. State of Chhattisgarh and others passed in WPS No. 4480/2006 and other orders passed by this Court. However, the respondents did not comply the directions given by this Court which led to the filing of a contempt petition i.e. CONT No. 543/16. The contempt petition also came up for hearing on 18.01.2017 and the respondents vide their order dated 29.03.2016 had rejected the claim of the petitioner. Since the respondents had taken a decision, this Court disposed of the contempt petition on 18.01.2017. Subsequently, the respondents reconsidered the case of the petitioner and again rejected the claim of the petitioner for compassionate appointment. Meanwhile, the petitioner has granted a lump sum one time settlement of Rs. 1,00,000/- on 26.09.2016. It is this order dated 13.01.2017 which is now being challenged in the present writ petition after a period of more than 2 ½ years.

3. What cannot be lost sight is that the petitioner's father died on 29.05.2003. It is more than 16 years now that the father of the petitioner had died. The claim of the petitioner have been rejected by the respondents on a couple of occasions. The petitioner's family has also been granted a lump sum compensation of one lakh rupees as one time settlement. Moreover, what is also to be seen is that the father of the petitioner was only a daily wage employee. The scheme for compassionate appointment floated by the State Govt. does not include a daily wage employee being entitled for compassionate appointment. In the absence of a clear policy of the State Govt. in this regard, this Court invoking its power of judicial review under Article 226 of the Constitution of India cannot sit over the policy of the State Govt. nor can this Court issue any direction contrary to the policy of the State Govt. so far as grant of compassionate appointment is concerned.
4. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned award. The writ petition accordingly stands rejected.

**Sd/-
P. Sam Koshy
Judge**