

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1527 of 2012**

Vijay Kumar Adile, S/o. Ramadhar Adile, mother of Smt. Savitri Bai Adile, Aged about 34 years, R/o. Village Ghonghadihh, Tehsil Takhatpur, District Bilaspur, Chhattisgarh, at Present Peepartarai, Police Station and Tehsil Kota, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through: Secretary, School Education Department, Dau Kalyan Singh Bhawan, Raipur, District Raipur, Chhattisgarh
2. District Education Officer, Bilaspur, District Bilaspur, Chhattisgarh
3. Block Education Officer, Bilaspur, District Bilaspur, Chhattisgarh
4. Vimal Kumar, S/o. Late Ramadhar Adile, mother of Smt. Agasiya Bai, R/o. Ghoghadih, Tehsil Takhatpur, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Basant Kaiwartya, Advocate
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10/06/2020**

1. The present writ petition has been filed seeking quashment of an order of appointment on compassionate basis issued to the respondent No.4 on 24.09.2008 (Annexure P/6).
2. The facts relevant for the adjudication of the present dispute is that the deceased employee in the instant case namely late Ramadhar Adile was working as an Assistant Teacher with the Education Department. The said person died in harness on 27.11.2005. Subsequent to the death of the aforesaid late Ramadhar Adile, the respondent No.4 moved an application for compassionate appointment claiming him to be the son of the deceased employee. It is said that the petitioner also had moved an application for compassionate appointment, however

subsequently vide the impugned order Annexure P/6 dated 24.09.2008 the appointment has been issued in favour of the respondent No.4. It is this order which is under challenge in the present writ petition.

3. The contention of the counsel for the petitioner is that the deceased employee in fact had married the mother of the present petitioner first and as such she is the legally wedded wife. The petitioner being the son of the legally wedded wife as such it is the petitioner, who was entitled for the compassionate appointment. The action on the part of the respondents is therefore bad in law and liable to be set-aside. The counsel for the petitioner also relied upon a succession certificate, which has since been issued in his favour on 10.06.2013 by the Court of the 4th Civil Judge Class-1, Bilaspur in Succession Case No. 23/2011.
4. The respondent No.4 inspite of service has not cared to represent his case.
5. The respondents/State on the contrary have filed a detailed reply and in the reply, the respondents have enclosed the copy of the service record of the deceased employee, which is the databased information collected in respect of the deceased employee. That in the service record, it is reflected that the name of the respondent No.4 is reflected in the service record as the nominee son and the wife's name is reflected as Agasiya Bai i.e. the mother of the respondent No.4. Nowhere in the service record does the name of the petitioner or mother of the petitioner Savitri Bai is reflected.
6. On a query being put to the learned State counsel, she further informed that in fact right from the date of the death of the deceased employee,

it is Agasiya Bai, who has been receiving the pension and the death-cum-retiral dues also have been paid to the said Agasiya Bai and thus according to the State counsel, there is no illegality as such committed by the State Authorities while granting compassionate appointment to the respondent No.4.

7. Having heard the contentions put forth on either side and on perusal of record, some of the admitted factual matrix as is stands is that the deceased employee worked with the Education Department as an Assistant Teacher. He died in harness on 27.11.2005. In the service record, the nominees name as wife and son is that of Agasiya Bai and the respondent No.4 Vimal Kumar Adile. From the submissions made by the State counsel, it also reflects that the entire death-cum-retiral dues were paid to the said Agasiya Bai and the monthly pension till date is being released to the said Agasiya Bai. Moreover, the order in the succession case has been obtained by the petitioner only on 10.06.2013 i.e. after a period of more than 5 years from the date the respondent No.4 has been given appointment. Moreover, the granting of the retiral dues as also the release of the pension to the Agasiya Bai has not been questioned or challenged by the mother of the petitioner till date before any competent Court of law, nor has she raised a dispute in this regard before the Department.
8. Even otherwise, if we take into consideration the entire factual matrix, what clearly reflects that the deceased employee in fact had entered into a marriage with Agasiya Bai under the customary law prevailing in the area and in the service record also the name of Agasiya Bai and Vimal Kumar Adile have been entered as the wife and son. This in fact

would show that even if Agasiya Bai is considered to be the second wife of the deceased employee, there is no dispute to the fact that the respondent No.4 is not the son of the deceased employee. Given the fact, if the respondents under the prevailing circumstances and the information as was reflected in the service record, have granted employment to the respondent No.4, who undoubtedly is the son of the deceased employee, the employment so granted cannot be said to be in any manner arbitrary, illegal or bad in law. Even otherwise the law of equity also is in favour of the respondent No.4 as by now he has put in more than 12 years of service in addition of being the son of the deceased.

9. In view of the aforesaid, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order (Annexure P/6) dated 24.09.2008. The writ petition accordingly stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved