

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2615 of 2020**

1. Smt. Kanak Bai Nayak, W/o Late Shri Nemichand Nayak, Aged About 50 Years
R/o Village - Bhiloud, Post - Abhanpur, Tahsil - Narharpur, Police Station -
Dudhava, District Kanker Chhattisgarh
2. Yashwant Nayak, S/o Late Shri Nemichand Nayak, Aged About 20 Years R/o
Village - Bhiloud, Post - Abhanpur, Tahsil - Narharpur, Police Station - Dudhava,
District Kanker Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of School Education,
Mahanadi Bhavan, Mantralaya, Police Station And Post - Rakhi, Atal Nagar,
New Raipur, District - Raipur Chhattisgarh
2. Director, Office Of Director, Lok Shikshan Sanchanalay, Indravati Bhavan,
Police Station And Post - Rakhi, Atal Nagar, New Raipur, District - Raipur
Chhattisgarh
3. Joint Director, Office Of Joint Director, Lok Shikshan Department, Bastar
Division, Jagdalpur, District - Bastar Chhattisgarh
4. District Education Officer (D.E.O.) Office Of D.E.O., Kondagaon, District -
Kondagaon Chhattisgarh
5. Block Education Officer (B.E.O.) Office Of Block Education Officer, Baderajpur,
Vishrampuri, Police Station - Vishrampuri, District Kondagaon Chhattisgarh

---- Respondents

For Petitioners : Shri Abhishek Pandey, Advocate

For Respondents/State : Ms. Richa Shukla, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order****10/07/2020**

1. Heard.

2. The present petition has been filed by the wife and the son of the deceased employee namely Nemichand Nayak. The grievance of the petitioners is that the father of the petitioner No.2, who was working as Upper Division Teacher, died in harness on 24.06.2007. The petitioner No.2 Yashwant Nayak for whom the compassionate appointment was sought, his date of birth is 16.06.2000, therefore, at the time of the death of the father of petitioner No.2 he was aged about 7 years and after attaining the majority, the petitioner made an application for compassionate appointment on 25.06.2018 (Annexure P-3). The said application was rejected by the authorities by order dated 16.03.2020 (Annexure P-5) on the ground that the application has been preferred is enormously delayed.
3. Learned counsel for the petitioners would make a reference of Annexure P-6, wherein the similar issue has been decided by the Division Bench of this Court in W.A. No.537/2015 on 10.09.2018, wherein the likewise position was considered and it was held that when the application for compassionate appointment was preferred after attaining the majority, the same cannot be rejected on the ground of delay.
4. State counsel opposes the arguments, however, is not able to dispute the order passed by the Division Bench of this Court in W.A. No.537/2015.
5. In view of the background of the said facts, the documents would show that the father of petitioner No.2 died on 24.06.2007 and as per Annexure P-2 which is the Adhar Card wherein the date of birth of the petitioner No.2 is mentioned as 16.06.2000 naturally he was minor at the time when his father expired. Application Annexure P-3 would show that on 25.06.2018 after attaining the

majority, the application was preferred for compassionate appointment and the same was rejected by order dated 16.03.2020 (Annexure P-5) on the ground of delay.

6. I have perused the judgment passed by the Division Bench of this Court in WA No.537 of 2015 which is on the similar premises and wherein the Division Bench has set aside the like nature of rejection which was made on the ground of delay by holding that on the date of death of the father of the appellant, the appellant was minor and after attaining the majority, when the application is preferred, the same cannot be dismissed on the ground of delay. Therefore, the case of the petitioner would be covered by the law laid down by the Division Bench of this Court passed in WA No.537 of 2015 on 10.09.2018 (Annexure P-6). Therefore, in view of the facts of this case, the order dated 16.03.2020 (Annexure P-5) passed by the respondent No.4 D.E.O. is set aside. The matter is remitted back to the competent authority of the State to take afresh decision on merits and not on the basis of delay which was the reason of the rejection of the claim of the petitioner. It goes without saying that on the date of death of the father of the petitioner No.2, the circular which was prevailing for making compassionate appointment shall guide the decision making. It is further directed that the decision shall be taken by the competent authority within a period of six months from the date of receipt of the copy of this order.
7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge