

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 214 of 2014**

Smt. Jagpati Bai W/o Late Shri Nohar Sai, R/o Ward No. 18, Talwapara
Vishrampur, Police Station Vishrampur, Revenue District Surajpur, Civil
District Surguja (CG)

---- **Petitioner**

Versus

1. The Chairman-cum-Managing Director, South Eastern Coalfields Limited, Head Quarter Seepat Road, Bilaspur (CG)
2. The Sub Area Manager, North Chirmiri, Domanhil Group, P.O Sonwani Colliery, District Korea (CG)
3. The Area Personnel Manager, North Chirmiri Colliery, District Korea (CG)

---- **Respondents**

For Petitioner	:	Ms. Nand Kumari Kashyap under instruction of Mr. Pushpendra Kumar Patel, Advocate
For Respondents	:	Mr. Aditya Pandey under instruction of Mr. Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

25.01.2021

1. The present writ petition has been filed assailing the order Annexure P-1 dated 11.12.2013 whereby the claim for compassionate appointment of the petitioner has been rejected.
2. The facts of the case in brief are that the husband of the petitioner was

working as a Helper under the respondents in North Chirmiri Colliery. The husband of the petitioner died while on rolls of the respondents on 22.06.2006. The petitioner thereafter applied for compassionate appointment. Though the claim of the petitioner was rejected earlier, subsequently the petitioner approached the High Court vide WPS No. 3202/2013 which was disposed of on 01.10.2013 directing the petitioner to make a suitable representation and for the respondents to consider and decide the said representation. Thereafter, the petitioner again made a representation to the authority concerned which now stands rejected vide impugned order Annexure P-1 dated 11.12.2013 leading to the filing of the present writ petition.

3. The contention of the counsel for the petitioner is that the reason assigned by the respondents in rejecting the claim application is arbitrary, illegal and bad in law. According to the petitioner, she fulfills all the eligibility criteria so far as the scheme for dependant employment applicable under the respondents department is concerned and that the same could not have been rejected by the authority concerned and the action on the part of the respondents in rejecting the claim of the petitioner is therefore per se illegal and deserves to be set aside/quashed.
4. Per contra, counsel appearing for the respondents submits that it is a case where the deceased employee had in fact abandoned his service long back and he was not serving the respondents for more than a decade, therefore, employer and employee relationship itself had ceased. The contention of the respondents is that the deceased

employee in fact had not reported for duty continuously since 21.12.1996 on-wards till his death which took place on 22.02.2006 i.e. almost for a decade the deceased employee was not serving the respondents and therefore, the employer and employee relationship itself stood ceased, on the basis of which, the rejection of the claim application does not warrant any interference. Further contention of the respondents is that from the records available it is reflected that the employee was not paid salary from 21.12.1996 on-wards till his death and even thereafter during all these period, there was no claim put forth by the petitioner which itself shows that the petitioner had sufficient means available to sustain herself and that she was not dependent upon the employment of the deceased. Further contention of the respondents is that the claim of the petitioner also suffers from delay and latches for the reason that the record shows that earlier also the claim of the petitioner was rejected by the Management as early as on 02.09.2006 which again was never challenged or questioned before any forum and the decision of the Management rejecting the claim of the petitioner attains finality. Thus, counsel for the respondents prayed for rejection of the writ petition.

5. Having heard the contentions put forth on either side and on perusal of the records, the dates in the instant case would be relevant. The deceased employee as per the Management left his employment on 21.12.1996. He did not resume his duty till the date of his death on 22.02.2006. The deceased employee was not paid any salary or monetary assistance in any form during the said period i.e. from

21.12.1996 till his death. Further admitted factual position also reveals that the petitioner for the first time approached the Court vide WPS No. 3202/2013 i.e. after more than 7 years from the date of death of her husband. Thus, the petitioner seems to have sufficient means for sustaining herself as is evident from the fact that from 1996 till 2006 and till the first round of litigation was filed in 2013, or else she would have knocked the door of the Court on an earlier occasion.

6. So far as the compassionate appointment is concerned, it is always meant to tide away the immediate crisis that the family faces on the death of the sole bread earner in the family. In the instant case, the bread earner was the deceased employee who himself had left employment about 10 years back from the date of his death without any intimation. That these 10 years period, there was no salary paid or any monetary assistance was given and even after the death of the deceased employee, the petitioner did not avail the legal remedy for another further period of 7 years till 2013 when the first writ petition was filed. This would clearly establish the fact that for almost 17 years the petitioner did not avail the remedy for any monetary assistance from the respondents or from any Court of law which goes to establish that she had sufficient means to sustain herself. The object and intention of providing compassionate appointment is to tide over the immediate financial crisis which the family of the deceased employee suffers on account of the death of the employee. In the instant case, the petitioner has not been able to give any plausible explanation or justification for the delay in approaching the Court and showing as to how she did not

approach the Court promptly and how she was sustaining herself for a period of well over 17 years before she approached the Court.

7. For the foregoing reasons, this Court does not find any strong case made out by the petitioner calling for an interference with in impugned order. The writ petition accordingly stands rejected.

Sd/-
P. Sam Koshy
Judge