

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR**

(Arising out of order dated 25.1.2018 passed by learned Single Judge in WPS
No.5402/2016)

WA No. 151 of 2018

- Smt. Annapurna Jatvar D/o W/o Late Indu Prakash Jatvar
Aged About 34 Years R/o Plot No. 74/8, Panchkuti Maitrikunj
Risali, Bhilai, District Durg, Chhattisgarh.

----- Appellant**Versus**

1. State Of Chhattisgarh Through It Secretary Panchayat And
Rural Development Department Mantralaya, Naya Raipur,
District Raipur, Chhattisgarh
2. Chief Executive Officer, Jila Panchayat Rajnandgaon,
Chhattisgarh
3. Chief Executive Officer, Janpad Panchayat, Mohala, District
Rajnandgaon, Chhattisgarh
4. The Collector, Rajnandgaon, Chhattisgarh

----- Respondents

For Appellant	:-	Mr. Parag Kotecha, Advocate
For Respondent-State	:-	Mr. Chandresh Shrivastava, DyAG
For Respondent No.2	:-	None
For Respondent No.3	:-	Mr. R.S. Baghel, Advocate

Proceedings through Video Conferencing**Hon'ble Shri Prashant Kumar Mishra, Ag.CJ****Hon'ble Smt. Rajani Dubey, J.****Judgment On Board By****Prashant Kumar Mishra, Ag.CJ**

05/07/2021

1. In this intra Court writ appeal, the appellant (henceforth 'the petitioner') has called in question the order passed by the learned Single Judge dismissing the writ petition for grant of compassionate appointment.
2. Petitioner's late husband Indu Prakash Jatvar, Assistant Engineer was employed in the office of the Janpad Panchayat, Mohala District Rajnandgaon, however, their marriage was dissolved by decree of divorce on 06.2.2016 (in the order impugned the date has wrongly been typed out as 06.12.2016). The husband of the petitioner died on 28.6.2016, whereafter she made an application for grant of compassionate appointment, on the ground that she was getting monthly maintenance of Rs. 4500/- allowed by the family Court for maintaining herself and her minor son, therefore, being dependent, she is entitled for compassionate appointment.
3. The learned Single Judge has dismissed the writ petition by holding that the divorced wife is not included within any of the category of the dependents, who are entitled for compassionate appointment in terms of clause 5 of the policy dated 14.6.2013, therefore, she is not entitled for grant of compassionate appointment.

4. Shri Parag Kotecha, learned counsel for the petitioner, would submit that the petitioner and her son being dependent on the monthly maintenance, from the deceased, the same is not available to them after his death, therefore, the petitioner is entitled to get compassionate appointment. He would further submit that the divorced wife is always entitled to claim maintenance, therefore, after death of husband she would be included within the term 'widow' and, as such, entitled to claim compassionate appointment as per clause 5 of the policy.
5. Learned counsel for the State would submit that a divorced wife is never treated as 'widow' of her husband, therefore, the petitioner is not entitled for compassionate appointment.
6. Having heard learned counsel for the parties, we are of the considered view that the petitioner has failed to make out any case for grant of compassionate appointment. Under clause 5 of the policy dated 14.6.2013, issued by the State of Chhattisgarh for grant of compassionate appointment, it is provided that one of the following adult dependent member of the deceased government servant would be entitled for grant of compassionate appointment in the following sequence:-

(a) Widow / widower

- (b) Son/ adopted son
- (c) Unmarried daughter / unmarried adopted daughter
- (d) Dependent widow daughter / Dependent adopted widow daughter, and
- (e) Dependent divorced daughter / Dependent divorced adopted daughter

7. The class of person entitled to secure compassionate appointment does not include 'divorced wife'. The divorced wife is also not treated as widow of the divorced husband for the simple reason that after annulment of the marriage by decree of divorce their relationship of husband and wife comes to an end.

8. As per **Stroud's Judicial Dictionary (Fifth Edition)**
 “widow” means :-

WIDOW (1)A widow is a woman who has survived a man to whom she was lawfully married, and who was his wife at the time of his death.

(2)A woman surviving a man with whom she has gone through the ceremony of marriage, but with regard to whom she had obtained a declaration of nullity of marriage, is not his “widow”. So , a wife divorced who survives her husband, is not his “widow”, within the Statute of Distribution; *secus*, if only judicially separated.

9. In **'Words and Phrases' Permanent Edition**, Vol.45 Page 41, under the heading 'divorced wife', the word "widow" means a woman who has lost her husband by death and has no application to a divorced woman. Where husband and wife are divorced a vinculo, the wife after the husband's death is not his widow and entitled to daver.
10. Once relationship of husband and wife has come to an end, the petitioner no longer remains a member of the family of the deceased government servant, she is otherwise also not entitled to claim compassionate appointment because clause 5 provides for such facility to any dependent family member of the deceased government servant. The petitioner was not a family member of the deceased government servant, on the date of his death, as the relationship of husband and wife has come to an end, on the date of passing of the decree of divorce. She was not dependent on her husband in the manner clause 5 refers to such dependent family member. She was allowed maintenance under a different provision of law i.e., under Section 125 of the Cr.P.C., but the same has no correlation with the term 'dependent family member' as occurred in clause 5 of the policy. Compassionate appointment is allowed to one dependent member of the deceased government servant to facilitate them to tide over the

immediate financial crisis. The facility cannot be provided to a person, who is not a member of the family of deceased employee.

11. In view of the above discussion, we are in full agreement with the view taken by the learned Single Judge.

12. Accordingly, the writ appeal is liable to be and is hereby dismissed, leaving the parties to bear their own cost(s).

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

SD/-

(Rajani Dubey)
Judge

Gowri