

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1575 of 2021**

Smt. Uma Devi Jaiswal W/o Late Sh. Tamradhwaj Jaiswal, Aged About 56 Years, R/o Haradi Bazar, Tehsil Katghora, District Korba Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Education Department Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Chhattisgarh
2. Collector, District Korba, Chhattisgarh
3. Treasury Officer, District Collector Office Korba, District Korba Chhattisgarh
4. Treasury Officer, District Treasury Office, Bilaspur, District Bilaspur Chhattisgarh
5. District Education Officer, Korba, District Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Kishan Lal Sahu, Advocate
For State	:	Mr. Shreshta Gupta, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****26.03.2021**

1. The limited grievance that the petitioner has in the present writ petition is the inaction on the part of the respondents in not deciding the representation that the petitioner has made for releasing the family pension to the petitioner.
2. The facts of the case in brief are that the employee in the instant case was one Tamradhwaj Jaiswal who was working under the respondents State as a Teacher and retired from service on 30.05.2009. Subsequent to his retirement, the retiral dues were received by the

employee including pension. The employee Tamradhwaj Jaiswal (hereinafter referred as "the deceased employee") died on 06.10.2020. The deceased employee had initially married one Kusum Lata Jaiswal and from the said marriage, there were 3 sons born namely Pradeep Kumar, Narendra Kumar and Gehendra Kumar. Subsequently, the deceased employee left the company of his first wife and children and started living with the petitioner where it is claimed that the deceased employee entered into a second marriage with the petitioner and from the second marriage also there was a son born namely Dinesh Kumar. On account of the fact that the deceased employee had left the company of the first wife and children, the matter for grant of maintenance was filed before the family Court, Katghora where the Court had ordered for grant of an amount of Rs.3,000/- per month in favour of the first wife vide order dated 07.02.2018 which the deceased employee was complying with. After the death of the employee, the present petitioner, on the basis of an affidavit executed by the deceased employee on 07.03.2019 moved a representation before the respondent authorities for releasing family pension. According to the petitioner, since the deceased employee was living with the petitioner for long and with whom she has also got a son and the fact that the relations with first wife and children were already strained, the authorities concerned may be directed to decide the representation of the petitioner for family pension at the earliest.

3. State counsel, on the other hand, opposing the petition submits that since admittedly first wife and children are alive, the benefit would first go to the first wife and children for the reason that she remains the first wife and as long as there was no order of divorce from the first wife,

she continues enjoying the status of being the first wife and was entitled for all dues payable to her on the death of the employee. However, the state counsel submits that since the representation of the petitioner is pending consideration, the same shall be decided in accordance with the rules and laws governing the field at the earliest.

4. Given the said facts and circumstances of the case, the writ petition at this juncture stands disposed of directing the respondent no.5 to take a decision as regards the claim of the petitioner for grant of family pension at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.
5. The writ petition accordingly stands disposed of.

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