

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3089 of 2021

Ku. Shashikala Xess D/o Late Shri Vijay Kumar Xess Aged About 20 Years
R/o Village Urdana, Deepapara, Raigarh Tahsil And District Raigarh
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
2. The Collector Raigarh District Raigarh Chhattisgarh
3. The District Education Officer Raigarh District Raigarh Chhattisgarh
4. The Block Education Officer Raigarh District Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Shri V. K. Pandey, Advocate.
For State	:	Ms. Binu Sharma, PL

Hon'ble Shri Justice P. Sam Koshy
Order on Board

30/06/2021

1. Aggrieved of the inaction on the part of the respondents in not considering the claim for compassionate appointment, the present writ petition has been filed.
2. The facts in nut shell is that the father of the petitioner was working under the respondents as a Peon and who died in harness on 15.12.2019. On the date of death of deceased, he was survived by this wife (the Widow) and one son and a daughter. The son of the deceased already was in government employment since 2010. He stood married in 2013 and he has his own wife and children to take care of and is living separately from that of the deceased from the time he got his service. Thus, on the date of death of deceased, the wife and the present petitioner, the daughter of the deceased were totally dependent upon the income of the deceased. The

petitioner immediately moved an application for compassionate appointment. The authorities concerned processed the claim for compassionate appointment. However, in the course of processing and scrutiny a remark was put that the son of the deceased was already in government employment and objections were called in this regard. The petitioner have submitted their objections and clarifications to the department specifically stating that the son got his appointment much before death of the deceased. He also got married much before the deceased had died and he has his own wife and children to take care of and is residing at a different place altogether. The authorities are yet to take a decision on the claim application of the petitioner.

3. Learned State counsel submits that since the objections have been submitted by the petitioner and even before the government could take a decision, the present writ petition has been filed. Thus, the same is premature and therefore be not entertained.
4. Be that as it may, given the aforesaid factual matrix of the case the present writ petition at this juncture stands disposed of directing the respondent no.3 & 4 to take an appropriate decision on its own merits in accordance with the rules and policies governing the field at the earliest preferably within a period of 60 days. It is also necessary at this juncture to bring it to the notice of the respondents that this Court in the recent past have in various judgments of this Court held that claim for compassionate appointment should not be rejected on the hyper technicality, that of another member in the family being in government employment.
5. This Court has in the recent past have in many cases of similar nature has specifically ordered that an enquiry should be conducted so far as dependency part is concerned ascertaining whether the so called family

member who is in government employment is supporting the dependents of the deceased in any manner and only then should a decision be taken. This in other words means that an enquiry if it is found that family member found to be in government employment is already is married, settled elsewhere with his own family, wife, children and other dependents, whether the said person can be treated as part of the dependents of the deceased. Whether the said person can be expected to take care of the responsibility and the liabilities of the remaining family members of the deceased who were totally dependent upon the income of the said deceased employee.

6. Let respondent no.3 & 4 take an appropriate decision after due scrutiny of the aforesaid facts and circumstances of the case mentioned in the preceding paragraphs.
7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit