

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWA No. 170 of 2021

1. Smt. Surekha Mishra W/o Late Anand Mishra Aged About 45 Years Resident Of Rameshwar Nagar, Ghanpuri, Post Office Birgaon, Raipur Distt. Raipur, Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through - The Secretary, Department Of Education, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. The District Education District Mahasamund, Chhattisgarh.
3. Rekha Mishra W/o Late Anand Mishra Aged About 39 Years Resident BTI Road, Opposite Adiwasi Hostel, Mahasamund, Tahsil And Distt. Mahasamund Chhattisgarh.
4. Aryan Mishra S/o Anand Mishra Aged About 14 Years Resident Of BTI Road, Opposite Adiwasi Hostel, Mahasamund, Tahsil And Distt. Mahasamund Chhattisgarh.
5. Aarom Mishra S/o Anand Mishra Aged About 12 Years Resident Of BTI Road, Opposite Adiwasi Hostel, Mahasamund, Tahsil And Distt. Mahasamund Chhattisgarh.

Respondents No.4 & 5 are Minor Through Mother Smt. Rekha Mishra (Respondent No.3)

---- Respondents

For Appellant: Shri Vipin Tiwari, Advocate

For Respondent /State : Shri Vikram Sharma, Dy. Govt. Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Smt. Rajani Dubey. J.

Order On BoardByPrashant Kumar Mishra, Ag. CJ.07-07-2021

1. Anand Mishra (since deceased) working in the Department of Education, Government of Chhattisgarh, died in harness on 21-9-2014. The appellant herein is the first wife of the deceased employee whereas Rekha Mishra (respondent No.3 herein) is his second wife. Respondents No.4 & 5 herein namely; Aryan Mishra & Aarom Mishra, respectively are the two sons born out of the second wife Rekha.
2. In proceedings for issuance of succession certificate initiated by both the parties the matter eventually reached the High Court in Civil Revision No.172 of 2017 & Civil Revision No.181 of 2017 decided on 12-2-2018. This Court, by the above common order, directed that the Children Aryan Mishra & Aarom Mishra born from the second wife are also entitled to get succession certificate along with the present appellant, Vaishnavi Mishra & Kumodini Mishra. This Court directed that necessary succession certificate be issued in favour of Aryan Mishra, Aarom Mishra, Surekha Mishra, Vaishnavi Mishra and Kumodin Mishra for succession in equal proportion/share.
3. Thereafter, Rekha Mishra and her two sons preferred WPS No.2830 of 2018 for grant of compassionate appointment and also for grant of pensionary benefits, which was dismissed on 5-4-2018 against which WA No.480 of 2018 was preferred by Rekha Mishra and her two sons. The said writ appeal was dismissed by the Division Bench by order dated 19-7-2018. In the operative part the Court observed thus :

6) The writ application, therefore, has been rightly dismissed refusing grant of benefit of compassionate appointment in

favour of the second wife. So far as, share of pension and other post retiral dues are concerned that will be decided according the declaration made by High Court in Civil Revision Nos.172 of 2017 and 181 of 2017 in the judgment dated 12.02.2018.

4. There is no dispute that in between, the appellant herein has already been granted compassionate appointment being the first wife of the deceased employee.
5. In the present round of litigation Rekha Mishra and her two sons prayed for a direction to the respondent/State to release the pensionary and other retiral benefits in terms of the order passed in civil revision. The writ petition (WPS No.5947 of 2019) has been disposed of directing the respondent/State to do the needful within 30 days as per the spirit of the order passed in civil revision.
6. Shri Vipin Tiwari, learned counsel appearing for the appellant, would submit that the pension amount cannot be granted to more than one person.
7. It is not open for us to consider the aforesaid argument of Shri Vipin Tiwari in the teeth of order passed by the coordinate Bench of this Court in WA No.480 of 2018, which has attained finality, in absence of the same having been called in question before the Apex Court.
8. In the result, the present writ appeal is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Rajani Dubey)
Judge

Gowri