

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3911 of 2020

Kshipra Upadhyay W/o Late Deepak Upadhyay Aged About 28 Years Occupation Service, Presently Posted As Assistant Sub- Inspector, I.G. Office, Bilaspur, Chhattisgarh, R/o B/29 Alka Avenue Colony, Uslapur Station Road, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, Mahanadi Bhawan, Naya Raipur, Atal Nagar, District Raipur Chhattisgarh.
2. Director General Of Police, Chhattisgarh Near Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
3. Assistant Inspector General Of Police (Administration) Police Headquarters, Naya Raipur, Atal Nagar, District Raipur Chhattisgarh
4. Inspector General Bilaspur Division, District Bilaspur Chhattisgarh
5. Superintendent Of Police Bilaspur, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rajeev Shrivastava, Advocate
For State	:	Mr. Sudeep Verma, Deputy G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/05/2021

1. The present writ petition has been filed primarily claiming for the following relief:

“10(i) That, this Hon'ble Court may kindly be pleased to direct the respondents not to stop the special family pension of the petitioner, which she is receiving due to martyr of her late husband in Jhiram Ghati incident, in case the petitioner gets married again.”

2. The brief facts of the case, which led to the filing of the present writ petition is that the petitioner is a widow of late Deepak Upadhyay. The petitioner had married Deepak Upadhyay on 05.05.2011. Deepak Upadhyay was working as a Police Constable under the State of

Chhattisgarh. On 25.05.2013 in a gruesome naxalite attack at Jhiram Ghati the husband of the petitioner late Deepak Upadhyay was killed in an ambush. Subsequent to the death of the husband of the petitioner, the Government had decided to provide extraordinary pension to the petitioner under the Chhattisgarh Civil Services Extraordinary Pension Rules, 1963. At the time of the death of the husband of the petitioner, she was only around 21 years of age. Down the line, the family members intend to get the present petitioner married. It is apprehended by the petitioner that, in the event if she enters into a marriage, the State Government may stop the extraordinary pension which she is receiving, which has led to the filing of the present writ petition seeking for a relief that the pension be continued even after her remarriage.

3. Given the said facts as narrated in the preceding paragraph, this Court is of the opinion that as on date the cause of action for the filing of the petition has not arisen, for the reason that till date the petitioner is receiving extraordinary pension and she is yet to enter into a second marriage. This Court is of the firm view that unless and until the respondents abruptly stop the pension, which is being paid to the petitioner as on date and without any reason, there is nothing for this Court for adjudication as the cause of action does not arise or has not arisen. Meanwhile, the learned counsel for the petitioner has also referred to a document from the Police Headquarters dated 06.07.2019 in respect of the representation made by the petitioner in this regard, which is also pending consideration before the State Authorities.
4. Under the circumstances, this Court reserving the right of the petitioner to approach the Court in the event of a cause of action in the aforesaid factual backdrop arises, disposes of the present writ petition at this

juncture with liberty to the petitioner to approach the Court in case an action detrimental to the interest of the petitioner is passed by the respondents.

5. With the aforesaid observations and liberty, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved