

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5066 of 2021**

Smt. Muniya Mukharjee W/o- Late Udipto Mukharjee, Aged About 26 Years, R/o- Kumharpara Jagdalpur, Police Station, Tahsil - Jagdalpur, District - Bastar (Chhattisgarh) Mo. No. - 6266962188

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Public Health Engineering, New Mantralaya, Raipur, Police Station - Kewli, Tahsil And District Raipur (Chhattisgarh)
2. Superintending Engineer (E And M Board), Public Health Engineering Department Civil Line, Neer Bhawan Raipur, Tahsil And District - Raipur (Chhattisgarh)
3. Executive Engineer (E And M Division), Public Health Engineering Department Jagdalpur, District - Bastar (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Ratnesh Kumar Agrawal, Advocate
For State	:	Mr. Jitendra Pali, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22.09.2021**

1. Aggrieved by the impugned order dated 07.11.2020 the present writ petition has been filed. Vide impugned order the claim of petitioner for compassionate appointment has been rejected. The rejection has been on the ground that the mother-in-law of petitioner i.e. the mother of the deceased employee was found to be in government employment. That invoking Clause-6A of the policy for compassionate appointment, the claim of petitioner has been rejected.

2. The facts of the case relevant for disposal of the present writ petition are that the husband of petitioner working on the post of Assistant Grade-3 under respondent no.3 died in harness on 03.08.2020. The petitioner in the capacity of the widow of the deceased employee moved an application for compassionate appointment. The authorities, on consideration, have passed the impugned order rejecting the claim on the ground that the mother of the deceased was found to be in government employment.
3. The contention of the counsel for petitioner is that the petitioner was living separately with the deceased and she was dependent solely upon the income of the deceased and that the parents of the deceased were living separately so also other family members of the deceased were also living separately. They were not dependent upon the deceased neither was the deceased dependent on his parents at the time of his death.
4. The policy for compassionate appointment has a Clause which says that the claim for compassionate appointment would not be sustainable if in the family of the deceased there is someone else found to be in government employment. The intention and object behind envisaging such a clause was to ascertain the fact whether the legal heirs of the deceased have sufficient means to sustain themselves on the death of the bread earner in the family. The fact which needs to be considered is that who would be forming the part of family? Obviously it could be husband & wife and their children. In the instant case, it is the husband who was in employment and died in harness on 03.08.2020. On the death of the husband, the first claim for compassionate appointment would be that of the widow of the

deceased. In case the widow for any reason is not able to accept employment, then it could be passed to the children of the deceased who is eligible for the same. Now it is within this family if someone is found to be in government employment who was supporting the deceased at that point of time and that the need for compassionate appointment may not generate then it can go to somebody else who is more need of compassionate appointment.

5. By no stretch of imagination the mother-in-law of petitioner or for that matter the mother of the deceased can be brought within the ambit of family for the purpose of determining the dependency part neither does the policy for compassionate appointment framed by the State Govt. envisage that mother and father of the deceased would also be considered for the purpose of determining the dependency. In the absence of which it has to be implied that by the term family, it would be the deceased, his wife and children. Within the said family there is nobody in government employment and therefore the interpretation given by the respondents in rejecting the application for compassionate appointment does not seem to be justified.
6. Accordingly, the impugned order is set aside and the respondents are directed to reconsider the claim of petitioner for compassionate appointment in accordance with the policy subject to the petitioner meeting all other eligibility criteria.
7. The writ petition stands disposed of.

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