

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WRIT PETITION (S) NO. 5232 OF 2021**

- Sebron Ashawan, S/o Late Sanjay Ashawan, aged about 23 years, R/o Ward No.32, Godripara, Police Station Chirimiri, District Koriya (CG)

**... Petitioner****versus**

1. South Eastern Coal Limited, through General Manager, Seepat Road, Bilaspur, District Bilaspur (CG)
2. S.E.C.L., through Regional Manager (Personnel), Chirimiri Area, P.O. Chirimiri Colliery, District Koriya (CG)
3. S.E.C.L., through Sub Area Manager, Chirimiri OCM, Chirimiri Area, P.O. Chirimiri Colliery, District Koriya (CG)

**... Respondents**


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| For Petitioner  | : | Mr. Shakti Raj Sinha, Advocate.                                           |
| For Respondents | : | Mr. Amit Tirkey, Advocate, under instructions of Mr. Pankaj Agrawal, Adv. |

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**Hon'ble Shri Justice P. Sam Koshy****Order on Board****[29/09/2021]**

1. Ignoring the defaults pointed out by the Registry of this Court in the instant case, the matter was heard finally at admission stage itself with the consent of learned Counsels appearing for the parties.
2. Assailing the Order dated 22.8.2021 (Annexure P-1) passed by Respondents, the present Writ Petition has been filed by Petitioner.
3. Vide impugned Order (Annexure P-1), the claim for dependent employment by Petitioner has been rejected. The rejection has been on the ground that the mother of Petitioner was found to be in government employment.
4. Father of Petitioner was working as a Head Chainman under the Respondents and who died in harness on 2.1.2017. After the death of his father, the Petitioner has claimed for dependent employment under the provisions of National Coal Wage Agreement (NCWA) but the same stands rejected vide the impugned Order (Annexure P-1).

**5.** The undisputed facts of the case are that the Petitioner's mother is in government employment and is working in the Education Department of the Government of Chhattisgarh.

**6.** The provisions of dependent employment has been introduced with a social object of ensuring that on the death of the bread earner in the family, the legal heirs of the deceased should not be put to a state of penury and that to avoid the situation of financial stringency, as a social welfare measure the scheme of dependent employment/compassionate appointment was introduced.

**7.** The law in respect of dependent employment/compassionate appointment is by now well settled. The same is not to be treated as an alternative source of recruitment or employment. The same has to be considered strictly considering the financial condition of the legal heirs of the deceased employee. It is also a settled position of law that upon the death of an employee the first right of claiming compassionate/dependent employment falls upon the surviving spouse and it is only in the event of exceptional circumstances where the surviving spouse is not in a position to take employment can it be passed on to other legal heirs in the family.

**8.** In the instant case, the Petitioner's mother, as discussed earlier, admittedly is in government employment. Therefore, for all practical purposes, the Petitioner, if he does not have any other source of income, would be dependent upon his mother. If for any reason the mother is not taking care of Petitioner, he has his right for claiming appropriate relief from the mother. Only because the mother has given an affidavit in favour of Petitioner or that the mother has entered into another marriage subsequent to the death of the father of Petitioner, this by itself would not cease the relationship of Petitioner with his mother and neither would it come in the way of Petitioner being dependent on the mother.

**9.** This Court in the recent past itself has in many Writ Petitions held that in the event of the mother being in government employment, the other legal heirs of the deceased employee would not be and cannot be permitted to claim dependent employment/compassionate appointment as there is sufficient source of income within the family itself for sustenance.

**10.** In the instant case also, this Court is of the same view that since the mother of Petitioner admittedly being in government employment, the Petitioner can be very well sustained by the mother and for which the Petitioner if he has not been taken care of has other legal remedies available to him.

**11.** Writ Petition thus *sans* merit and the same deserves to be and is accordingly dismissed.

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