

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5320 of 2020**

Smt. Neeta Joshi Gaikawad D/o Late Shri Harihar Prasad Aged About 33 Years W/o Mukesh Gaikawad R/o Godela, Post Nikum, Tehsil Goondar, P.S. Arjunda, District Balod Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Superintendent Of Police Kabirdham, District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
2. Inspector General Of Police Durg Range, District Durg Chhattisgarh
3. Secretary Home Department Mahanadi Bhawan Naya Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Reena Singh, Advocate
For State	:	Ms. Akansha Jain, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****19/01/2021**

1. The grievance of the petitioner in the present writ petition is the inaction on the part of the respondents in not granting joining in spite of order of appointment being issued in her favour.
2. According to the petitioner, she is the daughter of the Late Harihar Prasad Joshi who was working as Head Constable and who died in harness on 26.12.2011 while in service. It is said that first wife of the deceased employee was Triveni Bai who deserted him 40-45 years back and at that point of time the Triveni Bai was issueless. Thereafter deceased employee married Ganga Bai from whom the petitioner was born and there are two

other daughters also born from the said marriage. Subsequent to the death of the deceased employee the petitioner has moved an application for compassionate appointment with no objection certificate of the other family members. The application for compassionate appointment was duly considered and processed and an order of appointment was also issued on 18.02.2019 in favour of the petitioner. The retiral dues also were settled in favour of the Ganga Bai for the reason that name of Ganga Bai and her children was reflected as nominees in the service records. In addition, there was also registered will executed by the deceased in favour of the Ganga Bai and her children. However, though an order of appointment was issued on 18.02.2019 the respondents however till date have not given joining to the petitioner as there was an objection raised by the first wife of deceased employee Triveni Bai who had moved an application seeking compassionate appointment for her nephew.

3. Admittedly from the pleadings available with the record it appears that the deceased employee died in harness working on the post of Head Constable on 26.12.2011. The said deceased employee had initially married Triveni Bai who herself is said to have deserted him and subsequently thereafter the deceased employee married Ganga Bai, mother of the present petitioner and whose name also reflected in the service record and also as nominees. The petitioner after death of deceased employee moved an application for compassionate appointment who has duly processed her claim and granted appointment.
4. There is no doubt so far as petitioner being the daughter born to the deceased employee from his second wife Ganga Bai. The first wife was issue less as would be evident from the pleadings made in the writ petition. The first wife seems to have crossed the age of employment and that is the reason she has moved an application for employment to be given to her nephew. When the children born to the deceased are alive that is the

petitioner and two other daughters born from the Ganga Bai, even if the status of the Ganga Bai is doubted but it cannot be doubted that petitioner is not the daughter of the deceased and she thus becomes eligible for her claim for compassionate appointment.

5. Moreover, the department has already processed the claim of the petitioner and issued appointment order in favour of the petitioner on 18.02.2019, the said order of appointment till date has not been canceled or withdrawn by the authorities concerned. Therefore for all practical reasons the said order has to be given effect to unless it is withdrawn or canceled or there is any restraint from any court of law in providing employment to the petitioner.
6. Given the aforesaid factual circumstances of the case, let respondent No.1 & 2 take appropriate decision in respect of the claim of the petitioner for granting joining pursuant to the order of appointment dated 18.02.2019 issued at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit