

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 10536 of 2019**

1. Kumari Premlata Ratre D/o Late Ruplal Ratre Aged About 23 Years
R/o Village/Post Pussore, Block Pussore, District Raigarh
Chhattisgarh, **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
School Education, Mahanadi Bhawan, Mantralaya, Atal Nagar,
Naya Raipur, Post Office And Police Station Naya Raipur Atal
Nagar, District Raipur Chhattisgarh,
2. Director Directorate Of Public Instructions, Indrawati Bhawan, Atal
Nagar, Naya Raipur, Post Office And Police Station Naya Raipur
Atal Nagar, District Raipur Chhattisgarh,
3. Collector Raigarh District Raigarh Chhattisgarh,
4. District Education Officer Block Baramkela, District Raigarh
Chhattisgarh,
5. Block Education Officer, Block Baramkela, Dist. Raigarh,
Chhattisgarh **----Respondents**

For Petitioner	:	Mr. Dhani Ram Patel, Advocate.
For State	:	Mr. Shrestha Gupta, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/02/2021**

1. The challenge in the present writ petition is to the order Annexure
P/1 dated 01.02.2017 whereby the claim for compassionate
appointment has been rejected by the respondent No. 1.
2. The fact in the present case is that father of the petitioner who was
working under the respondents as a Teacher, died in harness on
13.03.2011. The date of birth of the petitioner is 29.06.1996 as
such on the date of death of deceased, the petitioner was a minor
i.e. roughly around 14 years and 8 months. The petitioner
immediately on 26.08.2011 moved an application before the

authorities and requested for keeping the claim of the petitioner alive till she attains the age of majority. The petitioner attained the age of majority in the year 2014. Thereafter, the petitioner again approached the authorities on 22.08.2014 which finally stood rejected vide order Annexure P/1 on the ground that the same has not been filed within a period of three years. Thus on the lone ground of delay, the claim of the petitioner was rejected.

3. According to the petitioner, on the date of death of the deceased employee i.e. father of the petitioner, the number of dependent on the deceased employee were, the widow of the deceased according to the petitioner, she is a non educated lady and the elder daughter was the petitioner born in the year 1996, there were three more daughters younger to the petitioner. In all there were five dependent on the deceased employee and therefore there was a dire need for employment to sustain the family which has lost their sole bread earner.
4. According to the petitioner, even the first application that the petitioner has filed on 26.08.2011 left unanswered as to whether they would keep it pending or not whether they would keep the claim of the petitioner alive or not. The respondents also according to the petitioner did not intimate the petitioner that since the present petitioner being a minor, the respondents should consider taking employment by the widow of the deceased and the petitioner was hopeful of her claim to be considered immediately on her attaining the age of majority which now by the impugned order stands rejected.

5. Counsel for the petitioner referred to a decision of the Division Bench of this Court in the case of Supram Prasad vs. State of Chhattisgarh 2012 4 CGLJ 137 (DB) and also another judgment of the Division Bench of this Court in the case Pushpendra Nath Sonesare Vs. State of Chhattisgarh and Ors. in Writ Appeal No. 537/2015 decided on 10.09.2018 whereby in both of these judgments, the Hon'ble Division Bench had made a categorical statement that the claim of the petitioner should not be rejected on the hypo technical ground of delay.
6. In the instant case, what is relevant at this juncture to take note of is that admittedly the petitioner has at the first instance moved an application on 26.08.2011 i.e. just about five months from the date of death of the deceased employee. The documents enclosed along with the writ petition would show that the Department having received the said documents as there is a seal of the concerned Office where it was submitted. Hence it can not be said that the petitioner had raised her claim at a belated stage though in the year 2011 the petitioner was a minor. The respondents authorities never rejected the application rather kept it pending, thereby giving hope to the petitioner of her claim being accepted by the Department and immediately on attaining the age of majority the petitioner again moved an application on 22.08.2014 followed by other reminder which finally stood rejected vide Annexure P/1 only on the ground of delay.
7. Once when from the pleadings, it is evident that the petitioner has approached the respondents just within five months from the date

of death, the claim of the petitioner under no circumstances can be said to be filed at a belated stage. What is also necessary to be considered at this juncture is the fact that the very purpose for claiming of a Policy for compassionate appointment is to provide immediate assistance to the family of the deceased employee ensuring that they tie away the immediate crises that the family faces on the death of the bread earner.

8. Recently in WP(S) No. 1331/2019 decided on 05.11.2019, this Court in a similar set of facts while allowing the Writ petition relying upon the aforesaid judgment in the case of Pushpendra Nath Sonesare (supra). For ready reference Paragraph-8 of the Writ Appeal 537/2015 has held as under;-

8. On reading the provisions of Clause 9(1) and 9(2), it is evident that the reason for rejection which is said to be a delay of 5½ years is, therefore, beyond the ambit of guidelines issued by the State authorities. Not only that, there seems to be violation on their part when they failed to carry out their obligation for sending an application form to the family members of deceased employee or apprising them of their rights and obligations by providing guidelines in this regard.

9. This Court again had an occasion of dealing with a similar situation in WP(S) No. 6188/2014 which was decided on 30.01.2015 wherein again this Court taking into consideration the judgment of the Division Bench in the case of Supram Prasad (supra) had held that the rejection of the claim/application on the ground of delay is not proper legal and justified and it would amount to defeating the object and purpose for which the scheme for compassionate appointment was claimed.

10. Coming to the fact of the present case, if we look into the family details, it is evidently clear that the deceased employee, left behind

the widow, four minor daughters who were totally dependant on the deceased and where there was immediate need for some financial assistance so that the family could sustain themselves.

11. This fact seems to have been totally overlooked by the respondent-authorities under whom the deceased employee was working. The respondents being part of a welfare state is expected to take care of the welfare of the family members of the deceased employee who met with an untimely death and it is with this purpose that the claim of the petitioner for compassionate appointment is raised

12. Given the entire facts of the case, the impugned order Annexure P/1 in the opinion of this Court is not proper, legal and justified and the same deserves to be and is accordingly set aside. The respondents are directed to consider the claim of the petitioner for compassionate appointment subject to petitioner fulfilling all other eligibility criteria except for the delay ground on its own merits at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

13. The writ petition therefore stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge