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HIGH COURT OF CHHATTISGARH, BILASPUR

WP(S) No. 5719 of 2016

Order Reserved On :-29.07.2022

Order Passed On :- 01.11.2022

Ku. Anita Nirala D/o. Late Tulsiram Nirala, Aged about 27 years,
Resident of Qtr. No. M-106, Ompur Colony, Post Rajgamar Colony,
Rajgamar, Korba, District Korba (CG) **--- Petitioner**

Versus

1. South Eastern Coalfields Limited, Through the Chief Manager (Min)/SAM Rajgamar Sub Area, Korba (CG)
2. South Eastern Coalfields Limited, Through its General Manager, Office of the Sub Area Manager, Rajgamar, Sub Area, PO Rajgamar Colliery, District Korba (CG) 495683.

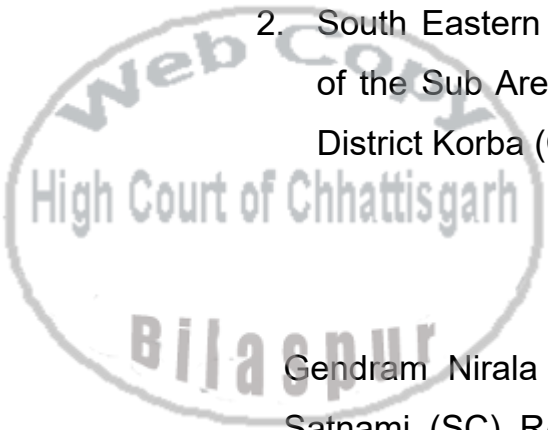
--- Respondents

WP(S) No. 2183 of 2017

Gendram Nirala S/o. Late Shri Tulsiram, aged about 34 years, Caste Satnami (SC) R/o. Bhilai Bazar Near, High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil and Revenue District Korba (CG) **--- Petitioner**

Versus

1. South Eastern Coalfields Limited, Through the Managing Director, Seepat Road, Bilaspur Civil and Revenue District Bilaspur (CG).
2. Sub Area Manager, SECL Rajgamar, Tahsil Civil and Revenue District Korba (CG).
3. Regional Manager, Coal Mines Future Fund Office, Seepat Raod, Bilaspur, Tahsil Civil and Revenue District Bilaspur (CG)
4. Samarin Bai W/o Late Tulsiram, Aged About 54 Years Caste Satnami, R/o. Bhilai Bazar Near High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba





Chhattisgarh., District : Korba, Chhattisgarh

5. Anita D/o Late Tulsiram, Aged About 25 Years Caste Satnami, R/o Bhilai Bazar Near High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba Chhattisgarh., District : Korba, Chhattisgarh
6. Sunita D/o Late Tulsiram, Aged About 23 Years Caste Satnami, R/o Bhilai Bazar Near High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba Chhattisgarh., District : Korba, Chhattisgarh
7. Santram, S/o Late Tulsiram, Aged About 4 Years Caste Satnami, Minor Through Natural Gaurdian Mother Samarin Bai, W/o Late Tulsiram, Caste Satnami, R/o Bhilai Bazar Near High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba Chhattisgarh., District : Korba, Chhattisgarh
8. Gesbai, D/o Late Tulsiram, Aged About 35 Years Caste Satnami, R/o Bhilai Bazar Near High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba Chhattisgarh., District : Korba, Chhattisgarh

--- Respondents

WPS No. 3691 of 2017

Gendram Nirala S/o Late Shri Tulsiram Aged About 34 Years Caste Satnami S C R/o Bhialai Bazar Nar High School, Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District- Korba, Chhattisgarh. , Chhattisgarh

---- Petitioner

Versus

1. South Eastern Coalfields Ltd. Through Its Managing Director, Seepat Road,civil And Revenue District- Bilaspur Chhattisgarh., Chhattisgarh.
2. Sub- Area Manager, S E C L Rajgamar, Tahsil Civil And Revenue District Korba, Chhattisgarh , District : Korba, Chhattisgarh
3. Regional Manager Coal Mines Future Fund Office, Seepat Road, Bilaspur, Tahsil, Civil Aand Revenue District Bilaspur, Chhattisgarh. ,



District : Bilaspur, Chhattisgarh

4. Samarin Bai, W/o Late Tulsiram, Aged About 54 Years Caste Satnami R/ R/o. Bhilai Bazar Near High School Post Bhilai Bazar, Polcie Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba, Chhattisgarh., District : Korba, Chhattisgarh.
 5. Anita D/o Late Tulsiram Aged About 25 Years Caste Satnami R/o Bhilai Bazar Near High School Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba, Chhattisgarh., District : Korba, Chhattisgarh
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 7. Santram, S/o Late Tulsiram, Aged About 4 Years Caste Satnami, Minor Through Natural Guardian Moother Samarin Bai, W/o Late Tulsiram, Caste Satnami R/o Bhilai Bazar Near High School Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba, Chhattisgarh., District : Korba, Chhattisgarh
 8. Gesbai, D/o Late Tulsiram Aged About 35 Years Caste Satnami R/o Bhilai Bazar Near High School Post Bhilai Bazar, Police Station Kusmunda, Tahsil Katghora, Civil And Revenue District Korba, Chhattisgarh., District : Korba, Chhattisgarh
- Respondents**

For the Petitioners	:Ms. Anita Nirala, Petitioner in person. Mr. Punit Ruparel, Advocate for petitioner in WPS No. 2183 of 2017.
For the Respondents	: Mr. V.R.Tiwari, Sr. Advocate with Mr. Atul Kesharwani and Mr. R.K. Gupta, Advocates
For the Respondent	: Mr. Raj Kumar Gupta, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

CAV Order



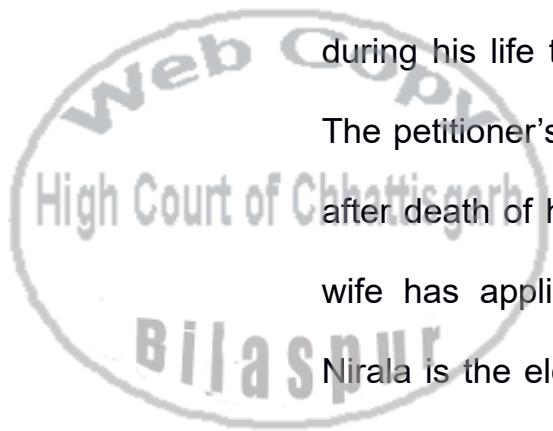
1. Since the issues involved in the aforesaid writ petitions are identical; therefore, they are heard analogous and are being disposed of by this common order.
2. In **WPS No.5719 of 2016**, petitioner Ku. Anita Nirala has filed the petition to direct the respondents authorities to grant compassionate appointment or to decide the petitioner's grievances for getting the compassionate appointment. In **WPS No.3691 of 2017**, petitioner Gendram Nirala son of first wife has filed the petition and has prayed for issuance of direction to the respondent to pay the death/service benefit of the deceased Tulsiram to the petitioner i.e. sum of Rs. 16,75,982/- with interest. In this case, petitioner of WPS No. 5719 of 2016 Anita Nirala has appeared in person on behalf of respondents No. 5. Respondent No. 3 Regional Manager Coal Mines has filed the return contending that the petitioner had filed succession case No. 17/15 Gendram Nirala v. Samarim Bai before Civil Judge Class-1 Katghora wherein the respondents have filed the reply. It has been contended that the respondent CMPF has not received the necessary statutory form by the petitioner as such dues have not been settled. It has also been stated that as per para 5 of CMPF scheme, 1998 PS-3 particular of family in which name of wife is noted as Smt. Sararin Bai, son as Gendram Nirala, Ashok Kumar Nirala and daughter Anita Nirala and Sunita Nirala. In the nomination form PS-4 for pension CMPF scheme 1998 the deceased has nominated Smt. Sararin as wife to receive the outstanding benefits on his death. It has been further contended that as per provision of para 64(i) of CMPF scheme, 1948, the dues are payable to Gendram as nominee. But the present respondent has not received





the CMPF claim in form Sahaj from the respondent SECL management, therefore, the application could not be proceeded further. In **WPS No. 2183 of 2017**, petitioner Gendram Nirala has filed the writ petition and has claimed compassionate appointment on account of unfortunate death of his father wherein second wife of deceased Samiran Bai, daughter Anita Nirala and Sunita Nirala, Santram and Gasbai have been arrayed as respondent No. 4 to 8.

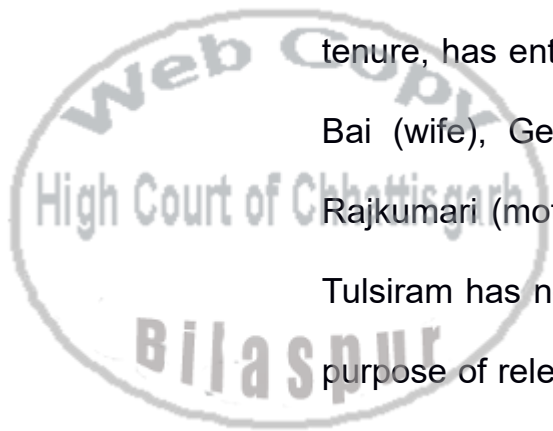
3. Facts of the case, in short, are that petitioner's father was working as Ex U.G. Munshi (Clerical Grade-II 6 & 7 Incline, Rajgamar Colliery), who expired on 14.08.2015. It is contended by the petitioner that his father during his life time, had two wives, namely, Radhabai and Samrin Bai. The petitioner's father had performed second marriage with Samrim Bai after death of his first wife and she being the elder daughter of second wife has applied for grant of compassionate appointment. Gendram Nirala is the elder son of Radhabai and he is employed under National Rural Health Mission at Primary Health Centre Kartala since 17.09.2013. The petitioner preferred an application before the respondents authority on 04.08.2016 for compassionate appointment and the respondents SECL in response of her application directed her to obtain succession certificate as there was dispute between Gendram Nirala and the petitioner which is pending before the trial Court, Katghora, District Korba, therefore, the petitioner's application is not decided and pending, therefore, the petitioner filed the writ petition before this Court.
4. Respondent SECL has filed the reply wherein they have stated that the case relating to the issue of getting succession certificate between the petitioner and her brother is still pending before the Court of Civil Judge,





Class-I Katghora wherein the SECL has also been arrayed party to the case unless and until the succession certificate is decided the claim of the petitioner cannot be considered.

5. The respondent No. 1 and 3 have filed their return stating that SECL management has informed Samiran Bai vide letter dated 10.10.2015 for making application either for dependent employment or for monetary compensation, but the wife of Tulsiram namely Smt. Samarin Bai has not made any application for dependent employment or for monetary compensation in lieu of dependent employment. The respondents No. 1 to 3 have further submitted that the deceased Tulsiram during service tenure, has entered the names of his dependents namely Smt. Samarin Bai (wife), Ges Bai (daughter) Gendram (son), Pancharam (father), Rajkumari (mother), Anita (daughter) in LTC option form of SECL. Late Tulsiram has nominated the name of Samarin Bai and Gendram for the purpose of releasing gratuity amount for equal distribution of the gratuity amount between them.
6. From the above factual foundation, this Court has to examine whether petitioner Gendram in WPS No. 2183/2017 and WPS No. 3691/2017 who is already employed under National Rural Health Mission at Primary Health Centre Kartala on contract basis can be called dependent or the daughter Anita Nirala who is not in employment is entitled to get dependent employment or not. This Court to resolve the dispute between the petitioners in different writ petitions, vide order dated 25.07.2022 had directed Gendram and Anita Nirala to resolve their dispute, informed the Court by way of affidavit and had fixed the case for further hearing on 29.07.2022.





7. In pursuance of direction, petitioner Gendram has filed the affidavit which reads as under:-

1. यह कि, मैं यह शपथ पत्र माननीय उच्च न्यायालय द्वारा पारित आदेश दिनांक 12/07/2022 के परिपालन में निष्पारित कर हूँ।
2. यह कि, मैं वर्तमान में कॉन्टेक्ट (संविदा) बेसिस पर ग्यारह माह के लिए सामुदायिक स्वास्थ्य केन्द्र करतला में सुपरवाइजर के पद पर अस्थायी कार्यरत हूँ जो कि 30 जून 2022 को समाप्त होने वाला था, परन्तु राष्ट्रीय स्वास्थ्य मिशन छ.ग. योजना के तहत मिशन संचालक के द्वारा 31 जुलाई 2022 तक बढ़ाया गया है। मिशन संचालन राष्ट्रीय स्वास्थ्य मिशन छ.ग. द्वारा जारी आदेश दिनांक 27/06/2022 की प्रति इस शपथ पत्र के साथ संलग्न है।
3. यह कि, मेरी सेवा 31/07/2022 तक है, इसके पश्चात सेवाए समाप्त हो जायेगी।
4. यह कि, याचिका क्रमांक 5719/ 2016 की याचिकाकर्ता कु० अनिता निराला की सगी छोटी बहन सुनीता निराला उम्र 35 साल लगभग वर्तमान में मेरी जानकारी के अनुसार राउतपुरा कॉलेज मे फार्मासिस्ट के पद नौकरी करती है एवं लगभग तीस से पैंतीस हजार रु. मासिक आया प्राप्त करती है।
5. यह कि, मेरी माता राधाबाई की मृत्यु वर्ष 1987 में हो गयी है। मेरी जानकारी के अनुसार मेरे पिताजी ने न तो कोई दूसरा विवाह किया और न ही उनका किसी अन्य महिला से कोई संबंध था। कुमारी अनिता निराला स्वयं को मेरे पिताजी की दूसरी औरत की लड़की के रूप में बताकर मेरे पिताजी की मृत्यु पश्चात सामने आकर प्रथम बार अनुकम्पा नियुक्ति हेतु याचिका प्रस्तुत की है। जिसमें मुझे जानबुझकर पक्षकार नहीं बनाया गया है। उसके द्वारा कुछ षडयंत्र कर आश्रितों की श्रेणी में मेरे पिताजी के नौकरी के दस्तावेजों में अपना एवं अपनी माता एवं अन्य लोगों के नाम गलत तरीके से जोड़ा गया है ताकि वह अनुकम्पा नियुक्ति का गलत तरीके से लाभ पा सके।
6. यह कि, मैं शादीशुदा हूँ। मेरी पत्नि सुजाता निराला 10 वी पढ़ी है और गृह कार्य करती है। मेरे दो बच्चे है। प्रथम हर्षिका निराला उम्र 15 वर्ष एवं द्वितीय पुत्र पीयूष निराला उम्र 10 वर्ष है। दोनों अध्ययनरत है। मेरे पिताजी की मृत्यु के पश्चात उनकी जमा राशि एवं उनकी नौकरी का लाभ मुझे नहीं प्रदान किये गये है, उस प्रकरण में भी याचिका माननीय उच्च न्यायालय में लंबित है, जिसके चलते मुझे अपने परिवार का जीवन यापन करने हेतु एवं बच्चों के पालने हेतु मजबूरी में उपरोक्त कार्य किया जा रहा है। जिसकी सेवाए 31 जुलाई को समाप्त हो रही है, जिसके पश्चात मेरा एवं मेरे परिवार का भविष्य अंधकारमय नजर आता है। अतः माननीय न्यायालय से निवेदन है कि, मेरे शपथ पत्र को स्वीकार कर मुझे अनुकम्पा नियुक्ति का लाभ दिया जाये, क्योंकि मेरे पिता श्री तुलसीराम का वैध पुत्र सिर्फ मैं हूँ। एस.ई.सी.एल. रजगामार में तुलसीराम की सेवा पुस्तिका में नॉमिनी के रूप में मेरा नाम दर्ज है।

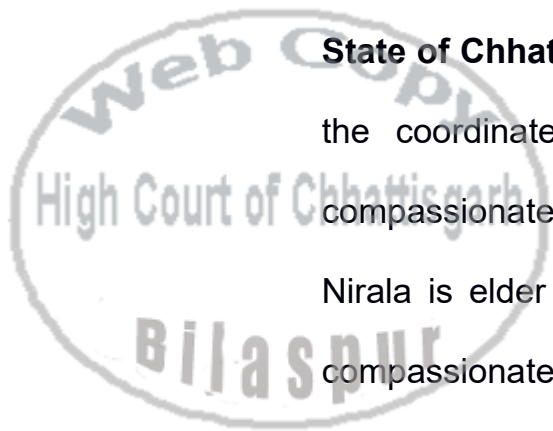
8. Petitioner Gendram also annexed order dated 27.06.2022 wherein it has been stated that the tenure of Gendram has been extended upto 31 July,2022 and subsequent extension will be done on the basis of work valuation.
9. Petitioner Anita Nirala has filed order of Civil Judge Class-1 Katghora by which succession case No. 9/2017 has been decided. Learned Civil



Judge Class-1 has granted succession certificate in favour of Samarin Bai and Anita to get gratuity of Rs. 7,80,903.76/-, group gratuity Rs. 2,19,096.24/- L.C.S. Rs. 1,12,000/-, earned leave of Rs. 61,540/- and amount of CMPF deposited with the Commissioner CMPF to the tune of Rs. 16,75,982/- with interest.

10. Learned counsel for the petitioner in WPS No.2183 of 2017 has referred the judgment of Hon'ble Supreme Court in the case of **Vijya Ukarda Ahor v. State of Maharashtra (2015) 3 SCC 399**, judgment of coordinate Bench of this Court in the cases of **Smt Sweta Singh v. State of Chhattisgarh in WPS No. 6828 of 2021** and **Piyush Kumar Anchal v. State of Chhattisgarh in WPS No. 1034 of 2022** and would submit that the coordinate Bench has held that elder son is entitled to get compassionate appointment and in the instant case petitioner Gendram Nirala is elder son than other children, therefore, he is entitled to get compassionate appointment and would pray that the writ petition filed by the Gendram may be allowed and the petition filed by the Anita Nirala may be dismissed.

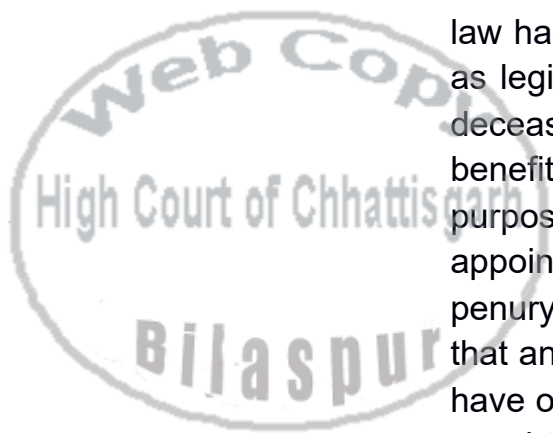
11. So far as the law laid down by the Hon'ble Supreme Court and the Coordinate Bench of this Court which basically deals the issue that the illegitimate child is also entitled to get compassionate appointment is not in dispute but in the present case the facts as reflected from the record, it is quite vivid, that Tulsiram has solemnized second marriage after death of his first wife, therefore, it cannot be said that petitioner Anita Nirala is an illegitimate child. As per provisions of Section 5 of the Hindu Marriage Act, which provides condition for a Hindu Marriage and according to section 5(i) neither party has a spouse at the time of the





marriage. The fact is not in dispute that deceased has solemnized second marriage after death of his first wife, therefore, it cannot be said that petitioner Anita Nirala in WPS No. 5719 of 2016 can be said to be illegitimate child. The law has been settled by the Hon'ble Supreme Court that the child born from the wedlock of second wife is also entitled for grant of compassionate appointment. Hon'ble Supreme Court in the case of **Union of India vs. V.R. Tripathi (2019) 14 SCC 646** has examined this issue by observing as under:-

17. Even if the narrow classification test is adopted, the circular of the Railway Board creates two categories between one class of legitimate children. Though the law has regarded a child born from a second marriage as legitimate, a child born from the first marriage of a deceased employee is alone made entitled to the benefit of compassionate appointment. The salutary purpose underlying the grant of compassionate appointment, which is to prevent destitution and penury in the family of a deceased employee requires that any stipulation or condition which is imposed must have or bear a reasonable nexus to the object which is sought to be achieved. The learned Additional Solicitor General has urged that it is open to the State, as part of its policy of discouraging bigamy to restrict the benefit of compassionate appointment, only to the spouse and children of the first marriage and to deny it to the spouse of a subsequent marriage and the children. We are here concerned with the exclusion of children born from a second marriage. By excluding a class of beneficiaries who have been deemed legitimate by the operation of law, the condition imposed is disproportionate to the object sought to be achieved. Having regard to the purpose and object of a scheme of compassionate appointment, once the law has treated such children as legitimate, it would be impermissible to exclude them from being considered for compassionate appointment. Children do not choose their parents. To deny compassionate appointment though the law treats a child of a void marriage as legitimate is deeply offensive to their





dignity and is offensive to the constitutional guarantee against discrimination.

12. Relying upon the judgment of **Union of India vs. V.R. Tripathi**, the Hon'ble Supreme Court in the case of Mukesh Kumar and Anr. vs. The Union of India and Ors in Civil Appeal No. /2022 arising out of SLP (C) No. 18571/2018 decided on 24.02.2022 has again examined the issue and has held at paragraph 9, 10 and 11 which reads as under:-

9. While compassionate appointment is an exception to the constitutional guarantee under Article 16, a policy for compassionate appointment must be consistent with the mandate of Articles 14 and 16. That is to say, a policy for compassionate appointment, which has the force of law, must not discriminate on any of the grounds mentioned in Article 16(2), including that of descent. In this regard, 'descent' must be understood to encompass the familial origins of person.⁵ Familial origins include the validity of the marriage of the parents of a claimant of compassionate appointment and the claimant's legitimacy as their child. The policy cannot discriminate against a person only on the ground of descent by classifying children of the deceased employee as legitimate and illegitimate and recognizing only the right of legitimate descendant. Apart from the fact that strict scrutiny would reveal that the classification is suspect, as demonstrated by this Court in **V.R. Tripathi**, it will instantly fall foul of the constitutional prohibition of discrimination on the ground of descent. Such a policy is violative of Article 16(2).

10. We note with approval the decision of the Delhi High Court in *Union of India v. Pankaj Kumar Sharma*,⁶ to which one of us (Justice S. Ravindra Bhat) was a party, which held that descent cannot be a ground for denying employment under the scheme of compassionate appointments. Speaking through Sanghi J., the Court held:





“22. The Court is of opinion that – apart from being textually sound understanding 'descent' in terms of prohibiting discrimination against a person on the basis of legitimacy, or on the basis of his mother's status as a first or second wife, fits within the principles underlying Article 16(2). Not only is one's descent, in this sense, entirely beyond one's control (and therefore, ought not to become a ground of State-sanctioned disadvantage), but it is also an established fact that children of 'second' wives, whether counted as illegitimate or legitimate, have often suffered severe social disadvantage. Another significant observation here is that at the entry level - "legitimacy" is and cannot be a ground for denial of public employment. For these reasons, this Court is of the opinion that the Petitioner's regulation violates Article 16(2).

11. Given the above, we hold that the issue arising for consideration, in this case, is covered by the judgment of this Court in Union of India and Ors. v. V.K. Tripathi and consequently the judgment and order dated 18.01.2018 of the High Court of Judicature at Patna passed in CWJC No. 18153 of 2017 is set aside. As we have held that appellant No.1, Shri Mukesh Kumar, cannot be denied consideration under the scheme of compassionate appointments only because he is the son of the second wife, there shall be a direction to consider his case as per the extant policy. The Authorities shall be entitled to scrutinize whether the application for compassionate appointment fulfils all other requirements in accordance with the law. The process of consideration of the application shall be completed within a period of three months from today.

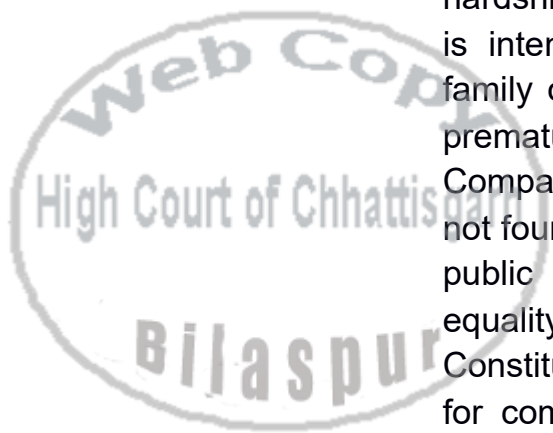
13. Therefore, it is held that petitioner Anita Nirala is entitled to be considered for grant of compassionate appointment. Now this Court has to examine whether petitioner Gendram Nirala who is already employed though in





contractual basis and Anita Nirala is not getting any employment is entitled to get compassionate appointment or not. The basis for grant of compassionate appointment to the dependent of deceased employee is intent to alleviate the hardship that the family of the deceased employee may face upon premature death while in service. The Hon'ble Supreme Court in the case of **Union of India and Anr. vs. V.R. Tripathi (supra)** has held in para 13 as under:-

13. The policy of compassionate appointment is premised on the death of an employee while in harness. The death of an employee is liable to render the family in a position of financial hardship and need. Compassionate appointment is intended to alleviate the hardship that the family of a deceased employee may face upon premature death while in service. Compassionate appointment, in other words, is not founded merely on parentage or descent, for public employment must be consistent with equality of opportunity which Article 16 of the Constitution guarantees. Hence, before a claim for compassionate appointment is asserted by the family of a deceased employee or is granted by the State, the employer must have rules or a scheme which envisage such appointment. It is in that sense that it is a trite principle of law that there is no right to compassionate appointment. Even where there is a scheme of compassionate appointment, an application for engagement can only be considered in accordance with and subject to fulfilling the conditions of the rules or the scheme. The submission which has been urged on behalf of the Union of India by the learned Additional Solicitor General is premised on the basis that there is no right to compassionate appointment. There can be no doubt about the principle that there is no right as such to compassionate appointment but only an entitlement, where a scheme or rules envisaging

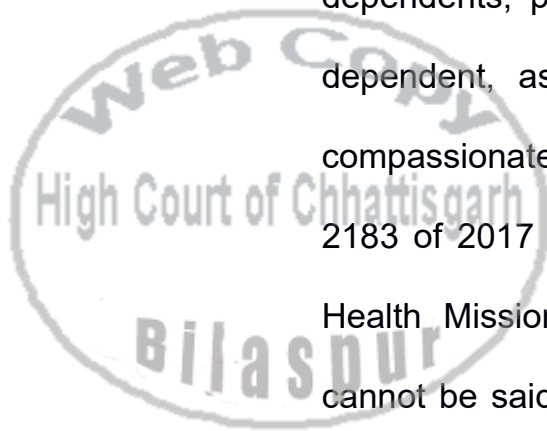




it exist, to be considered in accordance with the provisions.

14. Now coming to the facts of the case, the petitioner Gendram is employed under National Rural Health Mission at Primary Health Centre Kartala of course in a contractual basis but there is no material brought on record whether petitioner Anita Nirala is in gainful employment or not, therefore, she is dependent on the earning of the deceased Tulsiram, as such as per the chapter-9 of the National Coal Wage agreement VI and subsequent National Coal Wage Agreement which deals with the social security and as per clause-9.3.0 which provides employment to dependents, petitioner Anita Nirala in WPS No. 5719 of 2016, is the dependent, as such she is entitled to be considered for grant of compassionate appointment, whereas petitioner Gendram in WPS Nos. 2183 of 2017 and 3691 of 2017, who is working under National Rural Health Mission at Primary Health Centre Kartala on contract basis cannot be said to be dependent on the earning of his father, therefore, he is not entitled to get employment on compassionate appointment, view of this Court is fortified by the judgment of the Hon'ble Supreme Court in the case of **Haryana Public Service Commission vs. Harinder Singh and Anther (1998) 5 SCC 452** has held at paragraph 5 and 8 which reads as under;-

5. Learned counsel for the appellant submitted, therefore, that one who was gainfully employed cannot be termed a dependant of an ex-serviceman. Our attention was invited by learned counsel to the writ petition dated 12-7-1992 in the High Court to show that the respondent was gainfully employed at the relevant times. Para 3 thereof reads thus:



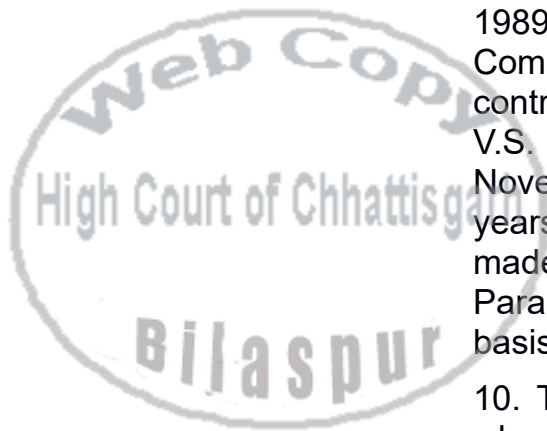


"That the petitioner passed his Bachelor of Engineering in Civil in 1988 from the Engineering College, Chandigarh affiliated with Punjab University, Chandigarh. After passing the said examination, the petitioner worked in Astra Construction Company, Chandigarh for one year, i.e., November 1988 to November 1989 as Civil Engineer. Thereafter, the petitioner joined the services of V.S. Construction Company as Civil Engineer in November 1989 and has been working as such in the said company."

In this Court the respondent has stated on affidavit that he was employed between November 1988 to 1989 as a Civil Engineer with the Astra Construction Company. The appointment was temporary and on contract basis. Thereafter he joined the service of V.S. Construction Company as Civil Engineer in November 1989 on contract basis for a period of two years, which period had expired. He was, when he made the said affidavit on 7-4-1993, working in Jai Parabolic Springs Ltd. for 18 months on contract basis.

10. The whole idea of the reservation is that those who are dependent for their survival on men who have lost their lives or become disabled in the service of the nation should not suffer. The public purpose of such reservation would be totally lost if it were to be made available to those who are gainfully employed. There is no justification for construing the words "dependants of ex-serviceman" in any manner other than that in which the appellant has construed them. This is in accord with the reservation policy itself, as shown by the quotation therefrom aforesaid.

15. Considering the entirety of the matter and further considering the fact that petitioner Anita Nirala is a dependent, therefore, WP(S) No. 5719 of 2016 is allowed by directing the SECL to consider the case of the petitioner Anita Nirala for grant of compassionate appointment in terms of the policy of the SECL. So far as WPS No. 3691 of 2017 filed by





Gendram Nirala for grant of service benefit of deceased Tulsiram to the tune of Rs. 16,75,982/- with interest is disposed of granting liberty to the petitioner to challenge the judgment passed in Succession Case No. 09/2017 by taking recourse available to him under the law. It is made clear, that this Court has not expressed any opinion on the merit with regard to judgment passed by learned Civil Judge, Class-I Katghora in Succession Case No. 09/2017.

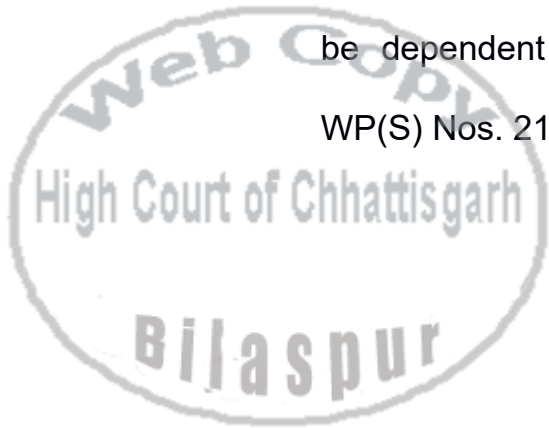
16. So far as WPS Nos. 2183 of 2017 and 3691 of 2017 filed by the petitioner Gendram for grant of compassionate appointment deserves to be dismissed as he is already a gainful employee and cannot be said to be dependent on the earning of the deceased Tulsiram, therefore, WP(S) Nos. 2183 of 2017 and 3691 of 2017 are dismissed.

Sd/-

(Narendra Kumar Vyas)

Judge

Santosh





Head Note

Person who is a gainful employee cannot be said to be dependent on the earning of his father for getting compassionate appointment with the SECL.

वह व्यक्ति जो कि सेवा में पूर्व से नियोजित है वह आश्रितों की श्रेणी में एस.ई. सी.एल. में अनुकंपा नियुक्ति का पात्र नहीं हैं।

