



2026:CGHC:9928-DB
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 190 of 2026

1 - Sushila Devi Kurrey Wd/o Dwarika Prasad Kurrey, Aged About 50 Years R/o House No. 223, Nandor Kalan, Janjgir Champa, Distt. Janjgir Champa (C.G.)

2 - Governer Baiyal Kurrey S/o Dwarika Prasad Kurrey Aged About 33 Years R/o House No. 223, Nandor Kalan, Janjgir Champa, Distt. Janjgir Champa (C.G.)

... Appellants

versus

1 - State of Chhattisgarh Through Secretary, Department of Technical Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Nava Raipur, District Raipur (C.G.)

2 - Director, Directorate of Technical Education, Indrawati Bhawan, Nava Raipur, Distt. Raipur (C.G.)

3 - Joint Director, Treasury Account And Pension, Bilaspur, Distt. Bilaspur (C.G.)

4 - Principal, Government Engineering College, Bilaspur, Distt. Bilaspur (C.G.)

... Respondents

(Cause-title taken from Case Information System)

For Appellants	:	Mr. Syed Majid Ali, Advocate
For Respondents/State	:	Mr. Praveen Das, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

26.02.2026

1. Heard Mr. Syed Majid Ali, learned counsel for the appellants as well as Mr. Praveen Das, learned Additional Advocate General appearing for the State/respondents.



2. The present intra Court appeal has been filed against the order dated 19.12.2025 passed by the learned Single Judge in WPS No.10499 of 2025 whereby the writ petition filed by the appellants/writ petitioners before the learned Single Judge has been allowed.
3. The brief facts necessary for adjudication of the present appeal are that late Shri Dwarika Prasad Kurrey, husband of appellant No. 1 and father of appellant No. 2, was appointed as Workshop Instructor in the year 1993 and was posted at Government Engineering College, Bilaspur, State of Chhattisgarh. He remained absent from duty allegedly from 05.11.2005 onwards. After a prolonged period, a departmental enquiry was initiated against him vide order dated 20.05.2024 on account of unauthorized absence. However, it is an admitted position that the said employee had expired on 22.12.2023, i.e., prior to initiation of the departmental enquiry as well as prior to passing of the termination order dated 03.06.2024, whereby his services were ordered to be terminated.
4. Aggrieved by the termination order dated 03.06.2024 passed against a deceased employee, the appellants herein preferred the writ petition seeking quashment of the said order and further prayed for grant of back wages, retiral dues and all consequential service benefits including compassionate appointment. The learned Single Judge, after considering the matter, passed the



impugned order, which is under challenge in the present writ appeal.

5. Learned counsel for the appellants submits that the impugned order dated 19.12.2025 (Annexure A-1) passed by the learned Single Judge, to the extent it denies back wages and full consequential benefits, is patently erroneous and unsustainable in law and deserves to be set aside. It is submitted that once the learned Single Bench has categorically held in paragraph 12 of the judgment that the entire departmental proceedings stood abated on account of the death of the employee and that the deceased employee shall be deemed to have remained in service till his death on 22.12.2023, there was no legal justification to direct calculation of retiral dues w.e.f. 05.11.2005 by treating the period of absence to his detriment. It is contended that such direction is self-contradictory and contrary to settled principles of service jurisprudence. When an employee is held to have continued in service till the date of death, his legal heirs are entitled to fixation of pay up to the date of death and all consequential retiral benefits, including pension, on the basis of the last pay legally payable.
6. Learned counsel further submits that the allegation of unauthorized absence was never proved in accordance with law during the lifetime of the deceased employee. No concluded departmental enquiry establishing misconduct was brought to its logical end before his demise on 22.12.2023. In absence of a



legally sustainable finding of misconduct, it cannot be presumed that the deceased employee remained willfully absent so as to deprive his family members of financial and retiral benefits. Placing reliance upon the judgment of the Hon'ble Supreme Court in ***Meera Sahni Vs. Lt. Governor of Delhi & Ors. reported in AIR 2009 SC (Suppl.) 760***, learned counsel submits that when a statute prescribes a particular procedure for taking action, the same must be strictly adhered to, and any deviation renders the action unsustainable. In the present case, initiation of departmental proceedings after the death of the employee and denial of consequential benefits on the basis of unproved allegations is wholly contrary to law. He lastly submits that the appellants adopt all grounds urged in the writ petition and pray that the impugned order be modified to the extent of granting full back wages, retiral dues and all consequential benefits, in accordance with law.

7. On the other hand, learned counsel appearing for the State submits that the learned Single Judge has already granted substantial relief to the appellants by setting aside the termination order dated 03.06.2024 and by holding that the deceased employee be deemed to have remained in service till the date of his death. It is contended that the direction to calculate retiral benefits from 05.11.2005 is justified in view of the admitted and prolonged unauthorized absence of the employee from duty. It is further submitted that the deceased employee had not rendered



any service from 05.11.2005 onwards and, therefore, the appellants are not entitled to claim back wages for the said period as a matter of right. The State contends that grant of back wages is not automatic and depends upon facts and equities of each case. Hence, no interference with the impugned order dated 19.12.2025 is warranted in the present writ appeal.

8. We have heard learned counsel appearing for the parties at length and carefully considered their rival submissions. We have also perused the record of the case, including the impugned order dated 19.12.2025 passed in WPS No. 10499 of 2025.
9. After appreciating the submissions of learned counsel for the parties therein as also the materials on record, the learned Single Judge, while relying upon the judgment passed by Hon'ble Supreme Court in ***A.K.S. Rathore (dead) through Lrs. v. Union of India and another, Civil Appeal No.7028/2022 decided on 28.09.2022***, as also the judgment passed by the Hon'ble High Court of Madhya Pradesh in ***Smt. Veena Dhurvey v. State of M.P., (WP No.13655/2017 decided on 06.07.2023)*** and the judgment passed by the Allahabad High Court in ***Pushpa Devi v. State of UP, (WA No.15004/2022 decided on 17.02.2023)***, has passed the impugned order in following terms:-

“12. Considering the above factual and legal position, that after death no enquiry can be conducted, therefore, the subsequent termination order dated 03.06.2024 terminating the service of



the petitioner is set aside as the proceedings stand abated on account of death of Government Servant on 22.12.2023. Consequently, it is held that the petitioner remained in service till his death on 22.12.2023, therefore, the respondent/State is directed to calculate retirement dues of deceased employee as per the last salary drawn by him i.e. from 05.11.2005. The petitioner's No.1 husband was appointed on 01.12.1993 and he expired on 22.12.2023 thus he has completed 30 years of service, as such the petitioner No.1 is entitled to get family pension, gratuity of her husband and all other service benefits which she is entitled to get. The respondents shall calculate these dues within three months from the date of receipt of the copy of the order.

13. Learned State counsel would submit that the application submitted by the petitioners for grant of compassionate appointment has already been rejected on the count that petitioner's No.2 father has been terminated, therefore, his application for grant of compassionate appointment cannot be considered. Thus the rejection of the application on the count of termination of the petitioner's No.1 husband deserves to be set aside on the count that this Court in foregoing paragraph has already quashed the termination order. In such situation, it is directed that petitioner No.2 would submit a fresh application for grant of compassionate appointment, which will be considered by the respondent/State in accordance with the policy, circular prevailing on



the subject within three months from the date of receipt of the application.

14. With the aforesaid observation and direction, the instant writ petition is allowed. No order as to cost.”

10. Having given our thoughtful consideration to the rival submissions advanced by learned counsel for the parties and upon perusal of the material available on record, we find no infirmity or illegality in the impugned order dated 19.12.2025 passed by learned Single Judge warranting interference in the present intra-Court appeal.
11. The learned Single Judge has, after due appreciation of the factual matrix and the settled legal position, rightly held that once the employee had expired on 22.12.2023, no departmental enquiry could legally be continued or initiated thereafter, and any consequential order of termination passed subsequent to his death is non est in the eye of law. The finding that the proceedings stood abated on account of death of the Government servant is in consonance with the law laid down by the Hon'ble Supreme Court in **A.K.S. Rathore (dead) through Lrs.** (supra) as well as the decisions rendered by the High Courts in **Smt. Veena Dhurvey** (supra) and **Pushpa Devi** (supra), which have consistently held that disciplinary proceedings cannot survive against a deceased employee.
12. Insofar as the grievance raised by the appellants with respect to back wages and fixation of retiral dues is concerned, we are of the



considered opinion that the learned Single Judge has struck a balanced and equitable approach. While quashing the termination order and directing release of family pension, gratuity and other admissible service benefits, the learned Single Judge has consciously refrained from granting back wages for the period during which the employee admittedly did not discharge duties. It is settled law that grant of back wages is not automatic and depends upon facts and circumstances of each case. The direction for computation of retiral dues in the manner indicated cannot be said to be arbitrary or contrary to law, particularly when the employee had remained absent for a prolonged period.

13. The scope of interference in an intra-Court appeal against an order passed in exercise of writ jurisdiction is limited. Unless the findings recorded by the learned Single Judge suffer from manifest illegality or patent perversity, the appellate Court would not substitute its own view merely because another interpretation is possible. In the present case, the appellants have failed to demonstrate any such error apparent on the face of record or misapplication of law warranting interference.
14. We are also mindful of the fact that the learned Single Judge has already granted substantial relief to the appellants by setting aside the termination order, recognizing continuity of service till the date of death, directing payment of family pension, gratuity and other admissible benefits, and further permitting consideration of the



application for compassionate appointment in accordance with prevailing policy. The impugned order thus adequately safeguards the rights of the appellants.

- 15.** In view of the foregoing discussion, we are of the considered opinion that the present writ appeal is devoid of merit. No case for interference with the well-reasoned order dated 19.12.2025 passed in WPS No.10499 of 2025 is made out.
- 16.** Accordingly, the writ appeal stands **dismissed**. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice