



CGHC010375922019



2026:CGHC:32245

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 9166 of 2019**

1 - Smt. Namita Nair W/o. Shri Ajay Nair Aged About 43 Years (Before Marriage Name Was Ku. Namita Das, D/o Late Shri S.C. Das) R/o House No. 96, Bagichapara, Near Shishumandir, Ward No. 11, Sukma, District Sukma Chhattisgarh, District : Sukuma, Chhattisgarh

... Petitioner(s)**versus**

1 - State Of Chhattisgarh Through The Secretary, Department Of General Administration, Ministry, Mahanadi Bhavan, Atal Nagar, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

2 - The Collector District Bastar, Jagdalpur, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

3 - The Collector District Sukma, Sukma Chhattisgarh, District : Sukuma, Chhattisgarh

4 - The Tahsildar Tahsil Sukma, District Sukma Chhattisgarh, District : Sukuma, Chhattisgarh

... Respondent(s)

For Petitioner(s) : Mr. Alok Kumar Dewangan, Advocate

For Respondent(s) : Mr. H.A.P.S. Bhatia, P.L.

/State

SB – Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****28/07/2026**

1. By way of this writ petition under Article 226 of the Constitution of India, petitioner has challenged the impugned order dated 10/07/2019 (Annexure P-1) passed by the Collector, District Sukma by which petitioner's application for compassionate appointment has been rejected finding no merit.
2. Petitioner's father namely Late Shri S.C. Das died in harness on 08/11/2025 and pursuant thereof, petitioner was granted compassionate appointment to the post of Upper Division Clerk (UDC) vide appointment order dated 24/06/1996 (Annexure P-2). Thereafter, on 04/07/1996, petitioner submitted her joining report along with medical certificate wherein the Medical Officer had noted that petitioner was temporarily unfit due to pregnancy and also marked her as married due to which she was denied joining and the Tahsildar, Sukma sought guidance from the Collector, Bastar and on 19/07/1996, the Collector, Bastar wrote a communication stating that as a married and pregnant daughter, petitioner is temporarily unfit and is deemed separated from the family of the deceased. On 23/09/2017, the Tahsildar, Sukma directed the petitioner to present all original documents for verification, yet joining was arbitrarily withheld. Petitioner then preferred WPS/1398/2019 whereby this Court, vide order dated 06/03/2019 (Annexure P-4), directed the respondent authorities to pass an appropriate reasoned order within four months and thus,

by the impugned order dated 10/07/2019 (Annexure P-1), the Collector, Sukma rejected petitioner's joining on compassionate appointment on grounds of marital status, pregnancy and lapse of time.

3. Learned counsel for the petitioner submits that in view of the decision rendered by the Supreme Court in the matter of **Kulsum Nisha v. State of U.P. and others**¹, a married daughter cannot be excluded from the definition of "family" and it is in violation of Articles 14 and 15(1) of the Constitution of India, as such, the respondents are unjustified in rejecting petitioner's claim for compassionate appointment on the grounds of marital status and pregnancy.
4. Learned counsel for the respondents/State would support the impugned order and submit that the instant writ petition is liable to be dismissed.
5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.
6. Admittedly, petitioner is married daughter of the deceased Government servant, who was initially given appointment on compassionate ground, however, upon joining and submitting her medical certificate, she was denied appointment on the ground that she was temporarily unfit being pregnant and she was married and ultimately, by the impugned order (Annexure P-1) her claim for compassionate appointment has been rejected.

1 2026 SCC Online SC 1059

7. In this regard, the recent decision rendered by the Supreme Court in the matter of **Kulsum Nisha** (supra) may be noticed herein appropriately, which states as under :-

“18. Examined on the touchstone of these principles, the exclusion of a married daughter from the definition of “family” cannot be sustained. The object of allotment under the dependent quota is to provide immediate succour to the family of a deceased dealer facing financial hardship. The relevant considerations are dependency, financial need, residence, and the ability of the applicant to discharge the obligations attached to the dealership. Marital status bears no rational nexus to any of these considerations.

19. The impugned provision proceeds on the assumption that upon marriage a daughter ceases to be a member of, or dependent upon, her parental family. Such an assumption is constitutionally impermissible. Marriage neither extinguishes the bond between a daughter and her parental family nor furnishes a valid basis to presume absence of dependency. Contemporary social realities demonstrate that many married daughters continue to reside with, support, or remain dependent upon their parents. Equally, there may be sons who are not dependent upon the family despite being included within the definition. Dependency is a question of fact and cannot be conclusively determined by reference to marital status alone.

20. Significantly, the scheme does not exclude a married son from consideration. A son continues to remain within the fold of the family irrespective of his marital status, whereas a daughter is excluded solely because she is married. The distinction is founded upon a gender-based stereotype that a daughter, upon marriage, becomes a member of another family and loses all ties with her natal family. Such a presumption is incompatible with the constitutional guarantee of equality and perpetuates historical notions of gender inequality which the Constitution seeks to eradicate.

21. The submission of the State that a married daughter may not satisfy the requirement of local residence is equally untenable. Residence constitutes an independent eligibility criterion under Paragraph IV(5) of the G.O. Whether an applicant satisfies that requirement must be determined on the facts of each case. A blanket exclusion of all married daughters cannot be justified on the speculative assumption that every married daughter necessarily resides elsewhere. Constitutional adjudication

cannot be founded on presumptions that are overbroad and disconnected from lived realities.

22. The purpose of the dependent quota is neither to create a right of succession or inheritance in the dealership nor a reward for lineage. The object is limited and specific: to provide immediate financial relief to the dependent family of a deceased dealer and to ensure continuity in the public distribution system. Once dependency is accepted as the governing criterion, exclusion of a married daughter solely on account of her marital status becomes wholly irrational and self-defeating.

23. We are, therefore, of the considered view that the exclusion of married daughters from the definition of “family” fails the test of reasonable classification and is manifestly arbitrary. The distinction created by Paragraph IV(10) of the G.O. lacks any intelligible differentia having a rational nexus with the object of the scheme. The exclusion is founded solely upon marital status and gender stereotypes and consequently, violates Articles 14 and 15(1) of the Constitution of India.”

8. Following the principle of law laid down by their Lordships of the Supreme Court in the matter of **Kulsum Nisha** (supra) and reverting to the facts and circumstances of the present case, it is quite vivid that merely because petitioner is married daughter of the deceased, she has been denied appointment on compassionate ground, which is totally unsustainable and bad in law. The respondents are absolutely unjustified in rejecting petitioner’s claim for compassionate appointment on the grounds of her marital status and pregnancy. Accordingly, the impugned order dated 10/07/2019 (Annexure P-1) is hereby set aside and respondents are directed to accept the joining of the petitioner and allow her to work on the post on which she was appointed on 24/06/1996.

9. With the aforesaid observations and directions, this writ petition is allowed. No cost(s).

Sd/-

(Sanjay K. Agrawal)

JUDGE

Harneet