

**(2001) 12 JH CK 0004**

**Jharkhand High Court**

**Case No:** Writ Petition (S) No. 5154 of 2001

Smt. Nand Rani Mishra

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

**Date of Decision:** Dec. 6, 2001

**Hon'ble Judges:** S.J. Mukhopadhaya, J

**Bench:** Single Bench

**Advocate:** Amreshwar Sahay, for the Appellant; H.K. Mehta, G.P. III, for the Respondent

### **Judgement**

@JUDGMENTTAG-ORDER

S.J. Mukhopadhaya, J.

Counsel for the petitioner is permitted to implied Deputy Commissioner, Jamtara as respondent No. 4.

2. Learned G.P. III accepts notice on his behalf.

3. The writ petition was preferred by petitioner for direction on the respondents to pay her salary due since 26.10.1999 till date.

4. The case of the petitioner is that her husband late Nikhil Kumar Mishra was an employee of the State and working as typist in the office of Inspector of Factory, Chapra Circle, Chapra. He died in harness on 26.9.1997 leaving behind the widow (petitioner) and four minor daughters. The petitioner applied for compassionate appointment whereinafter she was appointed by the Chief Inspector of Factory, Ranchi against a Class IV post vide Memo No. 364/P, dated 15.10.1999. Thereafter the petitioner joined the post and subsequently transferred to Jamtara on 26.10.1999. Her grievance is that though she is working and recommendation has been made by the Chief Inspector of Factory, Ranchi on 25.11.2000 followed by recommendation of the Inspector of Factory, Jamtara made on 18.8.2001, the payment has not yet been released.

5. The copy of order of appointment No. 364/P dated 15.10.1999 is on record as Annexure 1. By the aforesaid registered letter, the petitioner was appointed in the light of her application, affidavit filed by her and the recommendation of the Factory Inspector, Chapra Circle, Chapra made vide letter No. 1210 dated 28.12.1998 and No. 527 dated 31.5.1999.

6. The respondents in their counter-affidavit have not disputed the aforesaid fact, nor disputed the claim that the petitioner is working at Jamtara since 26.10.1999. One of the plea taken for non-payment of salary is that the fund has not been released and the other plea taken that the matter was referred to the Deputy Commissioner, Jamtara but the order of appointment has not yet been confirmed, the recommendation of the Compassionate Appointment Committee having not made.

7. It is not in dispute that the petitioner was appointed on compassionate ground and was eligible for such appointment. Recommendation of Compassionate Appointment Committee is one of the formalities to be completed in the matter of appointment to find out the eligibility of a candidate and the post against which he/she to be appointed.

8. Admittedly, the petitioner has been given appointment against a Class IV post for which no specific qualification laid down but mere knowledge of Hindi writing, reading. In the aforesaid background, there being no other infirmities, the respondents should not withhold the salary of the petitioner on the ground that it has not been approved by the Deputy Commissioner, Jamtara.

9. Accordingly, the case is remitted to the Deputy Commissioner, Jamtara to ensure payment of salary in favour of petitioner for the period, she has worked as also the current salary and to pay the arrears within two months from the date of receipt/production of a copy of this order.

10. If so required, the respondents will release the fund for payment in favour of petitioner and the Deputy Commissioner, Jamtara may issue order of approval of appointment of petitioner.

11. The writ petition stands disposed of, with the aforesaid observations.