
(2001) 01 RAJ CK 0056
In the Rajasthan High Court
Case No : Civil Writ Petition No. 69 of 2001

Anita Vyas

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 18-01-2001

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2001) 2 RLW 789 : (2001) 2 WLC 284 : (2001) 1 WLN 436

Hon'ble Judges : H.R. Panwar, J;B.J. Shethna and, J

Bench : Division Bench

Judgement

Shethna, J.—Short question arising in this petition is as to "whether the married daughter of the deceased could be included in the definition of Family for the purposes of seeking appointment on compassionate ground?"

(2). Avinash Chandra was serving in Telecommunication department as Supervisor. He died on 27.2.94 while in service leaving behind his widow Smt. Maggi Devi and his married daughter Smt. Anita Vyas. Except Anita, he has no other issue. On the death of her father. Smt. Anita applied for appointment on compassionate ground but she was denied appointment on various grounds, therefore, she had filed original application no. 228/96 before the Central Administrative Tribunal, Jodhpur Bench, Jodhpur (for short "the Tribunal"). The learned Tribunal by its order dated 5.10.2000 dismissed that application, therefore, she has filed this petition under Art. 227 of the Constitution.

(3). Learned counsel Mr. Singhvi for the petitioner raised a technical contention regarding giving findings on each point by the Tribunal. He submitted that under the Act, the Tribunal was required to record finding on each and every point but the same has not been done in this matter, therefore, the impugned order is bad. He also submitted that the Tribunal committed grave error in not allowing her application on the ground that the widow of the deceased was getting pension. He also submitted that the husband of Anita Vyas was jobless, therefore, her mother had to maintain not only herself but her husband also. He submitted that

in absence of any other issue in the family of her father, the respondents should have given her appointment on the compassionate ground.

(4). From the order at Annex. 1, it appears that she was denied appointment on compassionate ground for the reason that the widow of deceased was getting monthly family pension of Rs. 1670/- p.m. and they had three houses for the purpose of their occupation and rent purposes. It is further clear that the applicant got married to Om Prakash Vyas residing in a different State of Karnataka. At the time of death of Avinash, only his widow Smt. Maggi Devi was staying with him. On the death of her husband, she got a total amount of Rs. 2,02,216/- and family pension at the rate of Rs. 1670/-p.m. Above that, she had three houses, out of which in one house, she was living and two other houses were let out. Therefore, the Tribunal came to the conclusion that it cannot be said that the family of the deceased was living in harness on the death of Avinash. The object of the scheme is to give relief to the family members from economic distress due to sudden demise in harness. Keeping in mind all the relevant facts of the case, the Tribunal rejected the original application.

(5). Learned counsel Mr. Singhvi, relying upon the office memorandum dated 30.6.87 (Annex. R/2), submitted that the petitioner being the married daughter was entitled for appointment on compassionate ground on the death of her father. He submitted that the son or daughter or near relative of a Government servant who dies in harness including death by suicide, leaving his family in immediate need of assistance when there is no other earning member in the family, would be entitle to gel appointment on compassionate ground.

(6). In our considered opinion, the family would not include the married daughter for the purpose of getting appointment on compassionate ground on the death of her father. Once she has got married, she would become a member of her husband's family till her husband is alive. Her husband is jobless or not maintaining her for any reason, then she will have to claim maintenance from her husband and not from her father even after her divorce.

(7). From the facts of the instant case, it is clear that she was living with her husband after her marriage in other Stale of Karnataka. At the time of death of her father, only her mother Maggi Devi, widow of deceased, was staying. Annex. R/2 clearly provides that on the sudden death of the government servant, those family members leaving with the deceased who are in immediate need of assistance would only be considered for appointment on compassionate ground. That includes son or daughter or near relative of a government servant.

(8). It is clear that the applicant was not living with her father at the time of his death. From the record of the case, it is also clear that when Avinash dies, he had left three houses-one for residential purposes and two were let out. On his death, his widow got more than Rs. 2 laksh and she was gelling family pension of Rs. 1670/-p.m. For a single person, it cannot be said that on the death of her husband, she was living in harness.

(9). Under the circumstances, we are not inclined to attach any importance to a technical submission raised by learned counsel Mr. Singhvi about finding to be recorded on each and every point. When substantial justice is done, then this Court will not interfere with the impugned order passed by the Tribunal in its supervisory jurisdiction under Article 227 of the Constitution.

(10). Before parting we must make it very clear that the married daughter who was not staying with the deceased government servant at the time of his death, whose family is not in harness on his death, would not be entitled for any appointment on compassionate ground.

(11). One can never claim appointment on compassionate ground as a matter of right. Only thing is that the authority is required to consider the case in accordance with the Rules and if the authority has come to the conclusion that he or she will not be entitled, then this Court ordinarily will not sit in appeal over such decision in its writ jurisdiction.

(12). In view of the above discussion, there is no substance or merits in this petition. Accordingly, it fails and is dismissed.