

(2025) 09 AHC CK 0740
In the Allahabad High Court
Case No : Writ - A No. 10799 Of 2025

Deepika Tiwari

APPELLANT

Vs

State of U.P

RESPONDENT

Date of Decision : 18-09-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Prevention of Corruption Act, 1988 7, 13(1), 13(2)
Central Civil Services (Pension) Rules, 1972 — Rule 9

Citation : (2025) 09 AHC CK 0740

Hon'ble Judges : Rajan Roy, J; Prashant Kumar, J

Bench : Single Bench

Advocate : Avinash Singh Vishen, Sajeet Singh, Devrishi Kumar

Final Decision : Dismissed

Judgement

Abdul Moin, J

1. Heard.

2. Under challenge is the order dated 21.08.2025, a copy of which is Annexure-1 to the petition, whereby the appointment order of the petitioner on compassionate grounds vide orders dated 23.05.2025 and 29.05.2025 has been cancelled.

3. From the arguments as raised by the learned counsel appearing for the petitioner and perusal of the record, it emerges that one Smt Sangeeta Bajpai who was working as Assistant Teacher died in harness on 23.04.2021. At that stretch of time, the petitioner was an unmarried lady.

4. Subsequently the petitioner claims to have got married with the son of Smt Sangeeta Bajpai namely Shri Nikhil Bajpai on 15.02.2023.

5. Son of Smt Sangeeta Bajpai had staked his claim for compassionate appointment but his claim for compassionate appointment was rejected on

certain grounds. Even before the said order could be challenged by the husband of the petitioner namely Nikhil Bajpai, he died on 13.05.2023.

6. In the year 2024, the petitioner filed Writ A No.4738 of 2024 claiming compassionate appointment on account of the death of the mother-in-law Smt Sangeeta Bajpai. This Court vide judgment and order dated 19.06.2024, a copy of which is Annexure-3 to the petition, directed the respondents to consider the representation of the petitioner.

7. In pursuance thereof the claim of the petitioner was considered but rejected on certain grounds vide order dated 10.10.2024, a copy of which is Annexure-4 to the petition.

8. Being aggrieved with the said order, the petitioner filed Writ A No.10461 of 2024 and this Court vide judgment and order dated 03.03.2025, a copy of which is Annexure-2 to the petition, set aside the said order and directed the respondents to consider the claim of the petitioner afresh.

9. In pursuance thereof the respondent No.3 issued the appointment order dated 23.05.2025 and a corrected order dated 29.05.2025, copies of which are Annexure-6 to the petition whereby the petitioner was appointed on the post of Assistant Teacher (Geology) on the basis of the report of the Regional Committee. The said appointment order was issued considering the provisions of Regulations 103 to 107 under Section 16G of the Chapter III of U.P. Intermediate Education Act, 1921 (hereinafter referred to as 'the Act, 1921').

10. The respondent No.3 also directed the respondent No.4 to allow the petitioner to join on the post of Assistant Teacher after verifying the original documents.

11. The respondent No.4 raised an objection to the appointment of the petitioner vide the letter dated 16.06.2025 indicating that the petitioner is not the dependent of Smt Sangeeta Bajpai.

12. In pursuance thereof the D.I.O.S. has passed the impugned order dated 21.08.2025 whereby the appointment order of the petitioner dated 23.05.2025 as corrected on 29.05.2025 has been cancelled.

13. Being aggrieved the instant petition has been filed.

14. Argument of the learned counsel for the petitioner is that the D.I.O.S. has patently erred in cancelling the appointment orders as issued by him earlier on the basis of the objections raised by the respondent No.4 by indicating that the petitioner cannot be considered to be a dependent of Smt Sangeeta Bajpai rather the Regulations 103 to 107 themselves provide for appointment of the widowed daughter-in-law on compassionate grounds and thus it is prayed that the said order be set aside with a further direction to the respondents to allow the petitioner to work on the post of Assistant Teacher in pursuance of the appointment letters issued earlier.

15. Having heard learned counsel for the petitioner and having perused the record, it emerges that the petitioner staked her claim for compassionate appointment on the basis of being the widowed daughter-in-law of Smt Sangeeta Bajpai. Though the appointment letters had been issued appointing the petitioner on compassionate ground on 23.05.2025 as corrected on 29.05.2025 yet upon an objection being raised by the Institution the said orders have been cancelled.

16. Whether the petitioner falls within the ambit of being a dependant in the capacity of widowed daughter-in-law of Smt Sangeeta Bajpai, an Assistant Teacher who died in harness on 23.04.2021 in terms of the Regulations 103 to 107 of Section 16G of the Act, 1921 is to be considered.

17. For the sake of convenience, Regulations 103 to 107 are reproduced below:-

103- In case an employee, whether a teaching or non-teaching staff member, of a recognized aided institution (including a minority institution), who has been duly appointed following the prescribed procedure, dies in harness and the husband or wife (as the case may be) of the deceased employee is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government then one member of his/her family who is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government and who is not below 18 years of age, may be appointed either as a teacher in the Trained Graduate category or on a non-teaching post, if such person:-

(One) fulfills the educational or training qualifications prescribed for the post,

Provided further that if appointment is made to such a post for which Computer Operation and Typing has been prescribed as a mandatory qualification and the dependent of the deceased employee does not possess the requisite proficiency in Computer Operation and Typing then he shall be appointed to the post subject to the condition that within one year he shall obtain the "CCC" Certificate in Computer Operation awarded by DOEACC Society or any other certificate recognized by the Government equivalent thereto and also attain the required speed of 25 words per minute in Hindi typing and 30 words per minute in English typing, and if he fails to do so, his general annual increment shall be withheld and an additional period of one year shall be granted to acquire the requisite certificate in Computer Operation and the required typing speed, and if, even within the extended period, he fails to acquire the required certificate in Computer Operation and required typing speed, his services shall be terminated.

(Two) is otherwise qualified for Government service.

Explanation:- For the purposes of this Regulation, the term (c)"members of the family" of the deceased Government servant shall include the following relatives:-

(one) wife or husband

(two) son or adopted son

(three) daughters (including adopted daughters) and widow daughters-in-law

(four) deceased Government servant's dependent unmarried brother, unmarried sister and widow mother, if the deceased Government servant was unmarried

(five) the aforementioned relatives of a missing Government servant who has been declared dead by a competent court.

"Provided that if no person from among the aforementioned relatives of the deceased Government servant is available or if such a person is found to be physically or mentally unsuitable and thus be ineligible for appointment under Government service, then, only in such a case, the term "family" shall also include the dependent grandsons and unmarried granddaughters of the deceased Government servant."

104- Within seven days of the occurrence of death, the Management or the Principal or the Headmaster, as the case may be, of the recognized aided institution shall submit a report to the Inspector which shall include the name of the deceased employee, the post held, the pay scale, the date of appointment, the date of death, the name of the appointing institution and the names of the members of his/her family along with their educational qualification, age etc. The Inspector shall record the particulars of the deceased employee in a register maintained by him.

105- A member of the family of the deceased employee, as specified in Regulation 104, shall submit an application to the concerned Inspector for appointment according to the qualification, either to the post of Assistant Teacher or to a post in non-teaching cadre. The Committee shall consider the application and after the Committee recommends his appointment, the application shall be forwarded to the Management or the Principal or Headmaster, as the case may be, of the institution where the applicant is to be appointed in accordance with the provisions of Regulation 106, for issuance of the appointment order. The committee shall include the following:-

1- District Inspector of Schools- Chairman

2- Finance and Accounts Officer (Secondary Education) - Member

3- Senior-most Principal, Government Inter College / Government Girls' Inter College- Member

Provided that where the dependent of the deceased employee applies for appointment after the expiry of five years from the date of death and the State Government is satisfied that an undue hardship arises in a particular case due to prescribed time limit for making an application for employment, it may exempt or relax such requirements as it deems necessary to proceed in that case in a just and equitable manner:

Provided further that for the purpose of aforementioned proviso, the concerned person shall explain the reasons and furnish adequate justification in writing for the delay in applying for appointment after expiry of the prescribed time limit, along with necessary documents/evidence in support of such delay and the Government shall take appropriate decision after considering all facts related to the reasons of delay.

106- The appointment of a family member of the deceased employee shall, so far as possible, be made in the same institution where the deceased employee was serving at the time of his death. If there be no vacancy of Assistant Teacher or in non-teaching cadre in such institution then he shall be appointed in any other recognized aided institution of the district where such vacancy is available.

Provided that if no such vacancy exists in any recognized aided institution of the concerned district at that time then the case shall be referred to the Divisional Committee by the District Committee and the dependent of the deceased employee shall be appointed against a vacancy available in the Division.

Provided further that if no post be vacant at the Division level or if the dependent of the deceased employee seeks appointment in another Division then the case shall be referred to the Directorate, where it shall be considered by a Committee constituted at the Directorate level consisting the following:-

- 1- Additional Director of Education (Secondary) – Chairman
- 2- Joint Director of Education (Finance) – Member
- 3- Deputy Director of Education (Secondary-2/Secondary-3) – Member

In the event of concurrence, following consideration by the Committee constituted at the Directorate level, the concerned District Committee shall be authorized to make appointment against the vacancy reported from the districts.

107- The recognized aided institution, to which the application has been forwarded by the Inspector for issuance of the appointment order, shall issue the appointment letter within one month from the date of receipt of application and inform the Inspector. If the appointment letter is not issued by the inspector within the prescribed period without reasonable grounds, the Director of Education shall take appropriate action against the Inspector on receipt of representation.

(Translation by Court)

18. From a perusal of the aforesaid Regulations, it emerges that where an employee, whether a teaching or non teaching staff dies in harness then the husband or wife of the deceased employee can be appointed on compassionate grounds provided he fulfills the educational or teaching qualifications prescribed for the post.

19. Explanation to Regulation 103 provides that 'member of the family' would

also include a widowed daughter-in-law.

20. At the first blush, it appears that the petitioner in the capacity of being the widowed daughter-in-law of Smt Sangeeta Bajpai is eligible for compassionate appointment.

21. However, the facts of the instant case are otherwise. Smt Sangeeta Bajpai died in harness on 23.04.2021. At that stretch of time, son of Smt Sangeeta Bajpai namely Shri Nikhil Bajpai was not married. The marriage is only said to have taken place on 15.02.2023 i.e. subsequent to the death of Smt Sangeeta Bajpai. Shri Nikhil Bajpai staked his claim for compassionate appointment but the same was rejected and he died even before he could challenge the same. The petitioner staked her claim for compassionate appointment on the basis of being the widowed daughter-in-law but incidentally on the date of death of Smt Sangeeta Bajpai, the petitioner was not the daughter-in-law of Smt Sangeeta Bajpai, the marriage itself having taken place almost two years from the death of Smt Sangeeta Bajpai. Thus, it is apparent that the petitioner by no stretch of imagination could be considered to be the widowed daughter-in-law of Smt Sangeeta Bajpai so as to fall within the ambit of being 'member of the family' as provided under Regulation 103 to be entitled for being appointed on compassionate grounds.

22. This would also amply clear from the perusal of the Regulation 104, which provides that within 7 days of occurrence of death, the Management or the Principal or the Headmaster of the recognized aided institution shall submit a report to the Inspector which shall include the name of the deceased employee, the post held, the pay scale, the date of appointment, the date of death, the name of the appointing institution and the names of the members of his/her family along with their educational qualification, age etc.

23. Regulation 105 provides that a member of the family of the deceased employee, as specified in Regulation 104, shall submit an application to the concerned Inspector for appointment according to the qualification to the post of Assistant Teacher or to the post of non teaching cadre which has to be considered in accordance with the provisions of Regulation 106 by the Committee.

24. Thus from perusal of the aforesaid Regulations, it is also apparent that member of the family of the deceased employee would have to be read in accordance with the Regulations 104 & 105 which ordains the matter to be processed with regard to the submission of the report within 7 days of the occurrence of the death. Death of Smt Sangeeta Bajpai having occurred on 23.04.2021 and the petitioner having got married with the son of Smt Sangeeta Bajpai almost 2 years later on 15.02.2023 would thus clearly take away the petitioner from the ambit of 'member of family' as defined in Regulation 103 of the Regulations.

25. The matter could have been otherwise had the son of Smt Sangeeta Bajpai i.e. the husband of the petitioner being appointed on compassionate grounds on

account of death of Smt Sangeeta Bajpai and after his death, the petitioner could have staked her claim for being appointed on compassionate grounds but the facts are otherwise.

26. It is settled proposition of law that compassionate appointment is to be made in accordance with the rules. Once the rules themselves do not contemplate the situation as has arisen in the instant case and obviously there cannot be a situation where a person claiming himself to be a dependant on the basis of subsequent events stakes his claim for being appointed on compassionate grounds and thus clearly, such a claim would not be covered under the aforesaid regulations.

27. Mere fact that the order for compassionate appointment in favour of the petitioner had been issued, which has now been withdrawn by means of the order impugned would not take away the inadmissibility of the petitioner for being appointed on compassionate grounds keeping in view the discussion made above.

28. In view of the aforesaid discussion, the writ petition fails and is dismissed.