

(2010) 12 AHC CK 0133
In the Allahabad High Court
Case No : Special Appeal No. 108 of 2010

G.B.Pant University of Agriculture and Technology, Pant Nagar	APPELLANT
Vs	
Sur Suti	RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Citation : (2010) 12 AHC CK 0133

Hon'ble Judges : Barin Ghosh, CJ and V.K.Bist, J

Final Decision : Allowed

Judgement

V.K. Bist & Barin Ghosh, C.J. (Oral)

1. Delay Condonation Application No. 5069 of 2010 The application for condonation of delay is allowed. Delay in filing the Special Appeal is hereby condoned. Special Appeal No. 108 of 2010 By consent of the parties, the appeal is taken up for hearing.
2. Uttar Pradesh Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974 enables compassionate appointment of a member of the family of a deceased employee, who has died in harness. Rule 2 (c) thereof gives an inclusive definition to "family". Widowed daughterinlaw has not been specifically mentioned in the said Rule to be included in family. The said Rule came to be considered by Division Bench of the Allahabad High Court in Zila Panchayat, Kaushambi & another vs. Lalti Devi & another, 2008 (1) AWC 1035 in the backdrop of a claim that a widowed daughterinlaw is also a part of the family. Division Bench held so.
3. Since in terms of the said Rules, a member of the family is entitled to a compassionate appointment, Division Bench held that a widowed daughterinlaw is also entitled to a compassionate appointment under the said Rules.
4. Chapter XIII (1) (d) of the Statute of the appellant University provides that a dependant (wife or husband, son, unmarried daughter and widowed daughter) of

an employee of the University, who meets with untimely death or gets permanent disability during the service period, may be appointed on any nonteaching post for which he/she is suitable and fulfils the minimum qualifications, without selection procedure. The fatherinlaw of the respondent, an employee of the appellant University, died in harness. Husband of the respondent predeceased his father. The respondent, the widowed daughterinlaw of the deceased employee, accordingly, applied for a compassionate appointment. The application was rejected, on the ground that the respondent does not come within dependant as defined in the Statute.

5. The said rejection resulted in presentation of the writ petition, which has been allowed by the judgment and order under appeal. The principal reason for allowing the writ petition is the said decision of the Hon''ble Allahabad High Court. The decision of Hon''ble Allahabad High Court was rendered while construing an inclusive definition of 'family'. The said decision, therefore, should remain confined to the same. In the Statute, which was under consideration in the writ petition, there was no inclusive definition of 'dependant'. 'Dependant' was defined by stating that he/she shall be either a wife or a husband or a son or an unmarried daughter or a widowed daughter. There was no scope, therefore, while construing the definition of 'dependant' to expand the scope thereof beyond what had been specifically mentioned therein.

6. We, accordingly, hold that the ratio of the decision of the Hon''ble Allahabad High Court, referred to above, has no application to the definition of 'dependant' given in the Statute under consideration.

7. We, accordingly, allow the appeal and set aside the judgment and order under appeal.

8. However, we have noticed that the appellant University has already approached the State Government with a request to do the needful in the matter. We, accordingly, request the State Government to take a decision on the basis of the approach made by the appellant University at an early date and preferably within a period of three months from the date of service of a copy of this order alongwith the letter of request of the University to the Secretary, Agriculture Department.