
(1992) 01 RAJ CK 0074

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4387 of 1991

Jaswant Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-01-1992

Acts Referred:

Citation : (1993) 3 WLC 695 : (1992) 1 WLN 276

Hon'ble Judges : Rajesh Balia, J

Bench : Single Bench

Judgement

Rajesh Balia, J.—The petitioner seeks mandamus for appointment to be given to him under Rajasthan [Recruitment of Dependents of Government Servants dying while in service) Rules, 1975 [for short, the Rules of 1975]). The petitioner states that his brother Lalit Singh on whom he was fully dependent, was serving as Government servant since 1981. Said Lalit Singh expired on 29.7.1989 while he was serving as class IV employee in the Office of Assistant Engineer, Irrigation Department, Circle Salumber. At the time of death of said Lalit Singh, he was 27 years of age and was un-married. In the absence of any other member of the family, his widow or children, the petitioner contends that as a brother, he was entitled to be offered a job under the aforesaid Rules. By letter dated 21.4.1990, it was communicated to the petitioner that he does not come within the definition of "family" of deceased Government Servant, given under the Rules, as such, his proposal for appointment cannot be accorded to. The petitioner challenges this refusal (Annexures 7 and 9). The petitioner relies a Division Bench decision of this Court in *Herald Hamilton v. The State of Rajasthan* reported in R.L.W 1988(1) Raj 142. The relevant rule of the Rules of 1975 defines the word "family" as follows:

2(7) "family" means the family of the deceased Government Servant and shall Included wife or husband, sons and unmarried or widow daughters, who were dependent on the deceased Government servant,

2. In *Ramcharan Das's* case, the Apex Court had observed in this content as

under:

The word "family" in the context is not to be understood in a narrow sense of being a group of persons who are recognised in law as having a right of succession or having a "claim to a share in the property in dispute.

3. This Court while interpreting the meaning of word "family", under the Rules in question, observed in Herald Hamilton's case (supra) as under:

... the context in which the word "family" appears in the definition and the intention of the Rule makers, we are of the opinion that it is a word of loose and flexible description and not a technical term. It is also obvious that its ambit has to be determined having regard to the habits, ideas and socio-economic milieu of the parties. It is also clear that it is not to be understood in a narrow sense of being a group of persons who are recognised in law having a right of succession or having a claim or right to a share on the property or meaning only a member of Hindu joint family. We, therefore, hold that a brother living with the unmarried sister for the purpose of the Rules of 1975 in one facts and circumstances of the case, would constitute a member of the family of the unmarried sister.

4. The decision was followed in Madhusudan Chauhan's case (S.B. Civil Writ Petition No. 3665 of 1990) decided on 20.11.1990.

5. Mr. Ojha, learned Dy. G.A. has nothing to say against the proposition.

6. The petitioner is a commerce graduate and under the Rules of 1975, he is entitled to be appointed as a dependent of the deceased Government employee commensurate with the qualification held by him on a post for which he is found suitable. Accordingly, the communications Annexure 7 dated 21.4.1990 and Annx. 9 dated Nil, No. F4(3) vivid/90/Mu-Aa-Sin./Stha- 3/2696, are quashed and the respondents are directed to consider the case of the petitioner under the Rules of 1975 and give him a suitable appointment commensurate with his qualification under the Rules.

7. The order should be implemented within a period of 4 months from today.

8. The petition stands disposed off as indicated above.