
(2010) 08 AHC CK 0297

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 46425 of 2007

Krishna Saxena

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-08-2010

Acts Referred:

Uttar Pradesh Recruitment of Dependents of Government Servant (Dying-In-Harness) Rules, 1974 — Rule 2(c)

Citation : (2010) 08 AHC CK 0297

Hon'ble Judges : A.P.Sahi, J

Final Decision : Allowed

Judgement

Amreshwar Pratap Sahi, J.

1. The petitioner is daughterinlaw of Late Chameli Devi who died in harness as Assistant Teacher of a Primary School. The petitioner is the sole survivor and successor of her motherinlaw and her contention is that she is entitled for appointment under the Dying In Harness Rules.

A counter affidavit has been filed by the respondents stating therein that such a benefit is not available to the daughterinlaw as she does not fall within the definition of family under the Dying In Harness Rule.

This Court in the case of "Zila Panchayat, Kaushambi and another Vs. Lalti Devi and another" in the Division Bench judgment reported in 2008(2) ADJ 428 has concluded that the definition of the words "family" in Rule 2(c) of the Rules is inclusive and not exhaustive and therefore, the same includes a daughterinlaw as well. The aforesaid view has been followed by me in "Smt. Amrita Mishra Vs. State of U.P. and others" reported in 2010(1) ADJ 657, wherein the same view has been reiterated keeping in view the earlier judgment of this Court in the case of "Smt. Sanyogita Rai Vs. State of U.P. & others" reported in 2006(5) ADJ 501.

The claim of compassionate appointment is governed by the Government Order dated 4.9.2000 in respect of employees of the Basic Shiksha Parishad. The

definition of a dependant of a deceased employee is as follows in Clause 3(9):

The aforesaid clause in turn refers to the definitions of class of dependants in the rules framed for such purpose for government servants namely U.P. Recruitment of Dependants of Government Servants (Dying in Harness) Rules 1974. Rule 2(c) thereof is quoted below:

2.(c) "family" shall include the following relations of the deceased Government servant

(i) Wife or husband;

(ii) Sons;

(iii) Unmarried and widowed daughters;

(iv) if the deceased was unmarried Government servant, brother, unmarried sister and widowed mother dependant on the deceased Government servant;

Keeping in view the aforesaid decisions, the petitioner who is admittedly the daughter-in-law of the deceased employee and the sole survivor, is entitled to be considered for appointment on compassionate basis. The impugned order dated 6.12.2005 is, therefore, quashed. The matter is remitted back to the respondent no.3 for consideration of the candidature of the petitioner in the light of the observations made hereinabove and the order shall be passed within six weeks from the date of production of the certified copy of this order.

The writ petition is, accordingly, allowed.