
(2014) 09 AHC CK 0315
In the Allahabad High Court
Case No : Special Appeal No. 1904 of 2013

Meena Devi

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Citation : (2014) 107 ALR 548

Hon'ble Judges : Rakesh Tiwari, J;Ashok Pal Singh, J

Bench : Division Bench

Advocate : K.K. Singh, Advocate for the Appellant

Judgement

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Rakesh Tiwari, J.—We have heard Sri K.K. Singh, learned Counsel for the appellant, learned standing Counsel, appearing for the State-respondent and perused the record. This special appeal has been preferred challenging the validity and correctness of judgment and order dated 30.9.2013 passed in Meena Devi and another v. State of U.P. and others, Civil Misc. Writ Petition No. 6011 of 2012, whereby writ petition of petitioners/appellants herein has been dismissed.

2. Brief facts of the case are that after a year of marriage of petitioner/appellant No. 1 with Navratan Kumar (since deceased) a child was born out of their wedlock. At that time the husband and wife were living separately and Original Suit No. 386 of 2008, Navratan Kumar v. Smt. Meena Devi, before Principal Judge, Family Court, Allahabad was pending for restitution of conjugal rights. On 15.10.2009 due to illness husband of appellant was admitted in S.R.N. Hospital, Allahabad where he died. The appellant/petitioner applied for her appointment on compassionate ground and also submitted a representation in this regard. When her representation remained un-actioned she preferred Writ Petition No. 17662 of 2010 which was disposed of on 6.4.2010 with direction to respondent No. 3 for deciding her representation by a speaking order. After rejection of the representation aforesaid, she preferred Writ Petition No. 6011 of 2012 which too

was dismissed vide judgment and order dated 30.9.2013. Aggrieved the appellant has preferred the present appeal.

3. While dismissing the writ petition, learned Single Judge has held thus:

"1. Admittedly, the petitioner was residing separately from the deceased employee (Navratan Kumar) and there is a dispute between them, for which they filed Navratan Kumar v. Smt. Meena Devi, Original Suit No. 386 of 2008 before Principal Judge, Family Court, Allahabad for restitution of conjugal rights. Neither the petitioner was living with the deceased employee nor she was dependent on deceased employee inasmuch as, she has had been maintaining herself of her own.

2. In these facts and circumstances of the case and considering the fact that the petitioner has been maintaining herself on her own, I do not find any reason to direct the respondent to provide compassionate appointment to the petitioner.

3. In taking the aforesaid view I am supported by a recent decision of the Apex Court in MGB Gramin Bank Vs. Chakrawarti Singh, After referring various authorities on the subject including Umesh Kumar Nagpal Vs. State of Haryana and Others, A. Umarani Vs. Registrar, Cooperative Societies and Others, and State Bank of India and another v. Raj Kumar, 2010 (125) FLR 572 (SC) the Court in para 13 of M.G.B. Gramin Bank (supra) observed as under:

"The Court considered various aspects of service jurisprudence and came to the conclusion that as the appointment on compassionate ground may not be claimed as a matter of right nor an applicant becomes entitled automatically for appointment, rather it depends on various other circumstances i.e., eligibility and financial conditions of the family, etc., the application has to be considered in accordance with the scheme. In case the Scheme does not create any legal right, a candidate cannot claim that his case is to be considered as per the Scheme existing on the date the cause of action had arisen i.e., death of the incumbent on the post."

(Emphasis added)"

4. The writ petition lacks merits. Dismissed."

4. Learned Counsel for the appellants has assailed the impugned judgment on the grounds that the appellant No. 1 is legally wedded wife of late Navratan Kumar upon whom she and her daughter were wholly dependent, but due to some family disputes she left the house of her husband. However, this would not debar her from claiming compassionate appointment.

5. Per contra, learned Standing Counsel has supported the findings given in the judgment impugned in this appeal and contends that appellant had admittedly left the house of her husband within a year of marriage and was living with her father who was taking care of her and her child; hence she was not dependent upon her late husband.

6. Having heard learned Counsel for the parties and on perusal of record, it is clear that appellant was not dependent upon her husband as she was living separately which is established from filing of the suit. It may also be pointed out here that in a case of compassionate appointment ground of indigent conditions of the family must be taken into account and the dependants of the deceased Government servant have no legal right to claim appointment on compassionate ground as a matter of right, rather such an appointment is an exception to normal mode of recruitment. She was neither dependent upon the income of her husband nor living in indigent circumstances. In our opinion, there is no illegality or infirmity in the impugned judgment and compassionate appointment cannot be granted merely because the appellant was married to Navratan Kumar (since deceased) without proving her indigency and dependency upon him. Hence no interference is called for. For all the reasons stated above, appeal is dismissed.