
(1991) 08 RAJ CK 0026

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4956 of 1990

Neeta Chopra

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 09-08-1991

Acts Referred:

Citation : (1991) 2 RLW 209 : (1991) 2 WLN 479

Hon'ble Judges : I.S. Israni, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Inder Sen Israni, J.—This writ petition has been filed with a prayer that petitioner be held entitled to be appointed on a post falling in the category of subordinate service and the letter/order dated 4.9.1990 be held to be illegal and be set aside.

2. Briefly stated, the husband of the petitioner deceased D.K.Chopra was posted as Senior Draftsman in the office of Executive Engineer(P.H.E.D.) in Jaipur. He died from cancer on 17.9.1989. The petitioner is M.A. Since her husband died while in service, she applied for getting suitable employment under the provisions of the Rajasthan (Recruitment of Dependents of Government Servants Dying While in Service) Rules, 1975 (for brevity the Rules, 1975"). Even though petitioner was highly qualified she accepted to be appointed on the post of LDC vide order dated 24.10.89 (Anx. 3) since there was no other way-out for survival of the family. The petitioner gave representations dated 16.1.90 (Anx. 4) and 21.2.90 (Anx. 5) praying that she is entitled to be appointed on the higher post than LDC, which may be equivalent to the post, which was held by her husband keeping in view her qualifications. Respondent No. 3 issued a letter dated 7.3.90 to the Deputy Secretary, Department of Personnel, Group-II, A-2, Rajasthan, recommending that the matter of the petitioner for appointing her on a suitable post may be examined and she may be appointed on the post, she is entitled too. Representations were also submitted by her from time to time, the copies of which have been placed on record. However, vide Anx. 12 dated 4.9.90, her

representations were rejected on the ground that once an employment has been given to her as dependents of the deceased Government Servant under the Rules, 1975, no new appointment can be made on any other post. Since no action was taken, a notice for demand of justice was served, but with no effect. Hence this writ petition.

3. It is submitted by Mr. Rastogi, learned Counsel that the petitioner is highly qualified as stated above and deserves to have been given appointment keeping in view her qualification and also the post held by her husband, who was holding post of Sr. Draftsman. It is submitted that her husband was having technical qualification for holding the post of Sr. Draftsman. It is also submitted that, petitioner is entitled to be given suitable employment keeping in view her qualifications and the post held by her husband at the time of his death. It is also submitted that the matter is squarely covered by order of Division Bench of this Court in *Vivek Goswami v. State of Raj. and Ors.* 1989 (1) RLR 620).

4. It is submitted by Mr. Kaushik, learned Deputy Government Advocate that the request of the petitioner was rejected earlier by the Government of Rajasthan as there was no rule for re-consideration of appointment in Rules, 1975. After the decision mentioned above, such matters are considered by the Government of Rajasthan. It is also submitted that. she can be given only such employment which may be suitable according to her qualification as laid down under Rule 5 of the Rules, 1975.

5. I have heard both the parties and also gone through the documents on record. It may be said at the outset that such matter came before consideration of this Court in case of *Vivek Goswami (supra)*, in which, it was held that even though dependent of a deceased Government servant has been given an appointment", which is lower keeping in view the qualification held by such dependent, his matter can be considered for appointment on higher post keeping in view of his qualification. In the matter under consideration, it may be stated that the petitioner had hardly any choice but to accept any appointment that was offered to her, since, she had to keep the pot boiling. Therefore, She accepted the appointment of L.D.C., even though she was qualified as M.A. and her deceased husband was holding the post of Sr. Drafts-Man at the time of his death. I do not find it necessary to go into the details and adopt the reasoning and logic as provided in the order of *Vivek Goswami (supra)*.

6. This writ petition is, therefore, allowed and it is directed that the matter of petitioner be considered and she may be given suitable appointment keeping in view her qualifications and the post held by her deceased husband at the time of death in accordance with the Rule 5 of the Rules, 1975 within a period of 4 months. It is, further directed that this appointment shall be effective from the date of filing of this petition i.e. 6.10.1990, on which, this writ petition has been filed in this Court. However, it is made clear that seniority of any other person will not be affected by this order.

7. The writ petition is allowed as above with no order as to costs.