

(2015) 04 AHC CK 0187

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 18256 of 2015

Sadhana Srivastava

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 03-04-2015

Acts Referred:

Citation : (2015) 4 ADJ 799 : (2015) 5 ALJ 276 : (2015) 3 AWC 3134

Hon'ble Judges : B. Amit Sthalekar, J

Bench : Single Bench

Advocate : Awadh Narain Rai, for the Appellant

Final Decision : Dismissed

Judgement

B. Amit Sthalekar, J—Heard Shri Awadh Narain Rai, learned counsel for the petitioner and Shri Upendra Singh, learned standing counsel appearing for the respondents. The petitioner is aggrieved by the order dated 3.7.2014 whereby the claim of the petitioner for appointment on compassionate ground has been rejected on the ground that she is a married daughter of Late Ram Chandar Srivastava, Government Servant. These facts are not disputed that the father of the petitioner was a Government Servant and working in the office of respondent No. 2 as Office Superintendent and died while still in service on 23.9.2011. The petitioner is a married daughter of Late Ram Chandra Srivastava. She applied for compassionate appointment and her claim has been rejected by the impugned order on the ground that the benefit of compassionate appointment under the Dying in Harness Rules 1974 is available only to the wife or husband or son or unmarried daughter or widowed daughter and since a married daughter does not fall under any of these categories, the said benefit of compassionate appointment is not available to the married daughter.

2. Shri Awadh Narain Rai, learned counsel for the petitioner next submitted that since both sons and daughters have rights of succession into the joint family property of the father, therefore, the claim of a married daughter cannot be

denied for grant of compassionate appointment.

3. The scheme of compassionate appointment is to grant benefit to the "dependents" of the bread earner of the family who dies while still in service. A married daughter by no stretch of imagination can be said to be a "dependent" of her father once she is married and leaves her father's home she becomes part of her husband's family and would be recorded as a "dependent" of her husband and not dependent of her father.

4. Besides the right of a son or a daughter in their father's property flows from the law of inheritance and succession. The concept of inheritance and succession is alien to the right to seek appointment on compassionate grounds, such right being based purely on the financial condition in which the family of the deceased Government Servant finds itself upon the death of the bread winner of the family. The law has been expounded by the Supreme Court in the Case of Umesh Kumar Nagpal Vs. State of Haryana and Others, (1994) 68 FLR 1191 : (1994) 3 JT 525 : (1994) 2 SCALE 834 : (1994) 4 SCC 138 : (1994) 3 SCR 893 : (1995) 1 SLJ 229 : (1994) 2 UJ 322 wherein the Supreme Court has held that while considering the competent authority shall examine whether the unforeseen death of the Government Servant has left the family in dire financial straits, or in grave financial hardship or on the verge of penury.

5. A married daughter on marriage becomes a member of her husband's family and therefore, cannot claim appointment on compassionate appointment on the death of her father. This would defeat the very purpose of the scheme of compassionate appointment and vest it equal with the rights flowing from succession and inheritance.

6. Therefore, in my opinion, a married daughter does not fall within the category of a "dependent" of her deceased father (the Government Servant) while her marriage still subsists. In the case of the petitioner, the benefit of compassionate appointment has rightly been rejected. In this view of the matter, I do not find any illegality or infirmity in the impugned order. The writ petition lacks merit and is dismissed.