
(2012) 01 AHC CK 0276
In the Allahabad High Court
Case No : Writ A No. 55115 of 2011

Smt. Simlesh Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Citation : (2012) 01 AHC CK 0276

Hon'ble Judges : Sabhajeet Yadav, J

Bench : Single Bench

Judgement

Hon"ble Sabhajeet Yadav, J.—Heard Learned Counsel for the petitioner and Learned Counsel appearing for Union of India.

2. By this petition, the petitioner has sought relief in the nature of mandamus commanding the respondents to grant compassionate appointment to the petitioner against a post commensurate with her qualifications forthwith. The aforesaid relief is sought for on the assertions that petitioner's husband died on 6.9.2004 while he was in service of Union of India on the post of Safai Karmachari. Soon after the death of her husband the petitioner, who is Class 8th passed, applied for her compassionate appointment in the month of October, 2004 itself before the respondents. Petitioner's application was processed by the Department but even after long lapse of time they could not communicate any decision on the application of the petitioner. Being aggrieved by the aforesaid inaction of respondents the petitioner approached this Court seeking the aforesaid relief.

3. In the counter affidavit filed by the respondents the main stand taken by the respondents is that the petitioner has become overage for a period of one year and 10 months on the date of communication letter dated 28.8.2006 contained Annexure-5 of the affidavit. A bare perusal of which indicates that the aforesaid letter has been written by Additional Deputy Inspector General of Police, Central Region, C.R.P.F., Luck now Uttar Pradesh, whereby he has sought permission for seeking age relaxation for appointment of the petitioner on the post of cook/

peon. But it appears that the competent authority, who is empowered to make relaxation in age, did not respond to it.

4. In this view of the matter, I am of the considered opinion that since the petitioner has immediately applied for her compassionate appointment on Class 4 post including the post of cook immediately after the death of her husband, in such a situation, her eligibility and qualification should be considered on the date of her application i.e. October, 2004 and in case during the pendency of application the petitioner has crossed the upper age limit for recruitment, in such a situation it is duty of the Department to relax the upper age limit having regard to the condition of the petitioner. Therefore, the respondents are directed first to consider the eligibility of appointment of the petitioner on the date of her application i.e. October, 2004 in respect of post in question. In case, it is found that during the pendency of said application before the authorities the petitioner crossed the upper age limit of recruitment, in such situation the competent authority is directed to relax the upper age limit as sought for by the Additional Deputy Inspector General of Police, as in my opinion, it is not unreasonable for appointment on the post of cook/peon.

5. Thus, writ petition stands disposed of finally with a direction to the respondents to pass appropriate order on the application of the petitioner in view of observations and directions made by this Court indicated herein before within a period of one month from the date of production of certified copy of the order passed by this Court.