



2026:AHC:9902

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - A No. - 1458 of 2017**

Smt. Neetu @ Anita Devi

.....Petitioner(s)

Versus

State Of U.P. And Anr.

.....Respondent(s)

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Counsel for Petitioner(s) : Akshay Raghuvanshi, Arvind Kumar Tripathi, Satya Prakash Singh, Vivek Mishra

Counsel for Respondent(s) : Ashok Kumar Singh, C.S.C.

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**Court No. - 52**

**HON'BLE MRS. MANJU RANI CHAUHAN, J.**

Heard learned counsel for the petitioner, Mr. Ashok Singh, learned counsel for respondent-BSA and learned Standing Counsel for the State.

The writ petition has been filed challenging the order dated 03/06.08.2016 passed by District Basic Education Officer, Siddharth Nagar, whereby the claim of the petitioner regarding compassionate appointment has been rejected.

Placing the brief facts of the case, learned counsel for the petitioner, submits that petitioner's father, who was working as Head Master in Primary Pathshala, Gaura Itwa, Siddharth Nagar, died in harness on 08.01.2010, leaving behind his wife and three married daughters. The petitioner being the eldest daughter moved a representation along with notarized no objection certificates of other family members requesting for being appointed on compassionate ground, when nothing was done, the petitioner filed Writ A No.24513 of 2016, which was disposed of by order dated 24.05.2016, with a direction to the District Basic Education Officer, Siddharth Nagar, to take decision with respect to grant compassionate appointment to the petitioner in accordance with law, within a period of three months from the date of production of certified copy of the order.

In compliance of the aforesaid order, the order impugned rejecting the claim of the petitioner has been passed on the ground that the petitioner being married daughter does not come within the ambit of family, hence, she is not entitled for the compassionate appointment.

Learned counsel for the petitioner relying upon the judgements of coordinate Bench of this Court passed in the case of **Smt. Vimla Srivastava vs. State of U.P. And Another in Writ C No.60881/2015**, and in the case of **Neha Srivastava vs. State of U.P. and Another in Special Appeal (Defective) No.863/2015**, decided on **23.12.2015** as well as in the case of **Neelam Devi Vs. State of U.P. Thru. Princ. Secy. Co-Operative Lko And Ors, in Writ A No.18566 of 2021**, decided on **17.07.2023**, submits that in view of the notification dated 12.11.2021, wherein the word unmarried has been deleted from Rule 2(C)(3) of U.P. Dependents of Dying in Harness Rules, 1974, therefore, the petitioner is entitled for being considered for appointment on compassionate ground. He has also placed reliance upon a full bench judgement of Rajasthan High Court passed in the case of **Priyanka Shrimali Vs. State of Rajasthan and Others, Civil Reference No.1/2022**, wherein the question referred as regards the applicability of the amended Rule 2(C)(3) of Dying in Harness Rule, 1974, has been answered as follows:-

"The provision of Rule 2(c) of the Rules of 1996, which excludes the married daughter from definition of dependent prior to its amendment vide notification dated 28.10.2021, is discriminatory and violative of Articles 14 to 16 of the Constitution of India and as such, the word 'unmarried' from the definition of 'dependent', is struck down. Further, in Rule 5 of the Rules of 1996 also the word unmarried daughters/adopted unmarried daughter, shall be read as daughters/adopted daughter.

The judgment in the case of Sumer Kanwar (supra) and all other judgments, which have followed the judgment in the case of (33 of 33) Sumer Kanwar (supra), upholding the denial of compassionate appointment to married daughter, are overruled."

Accordingly, the amended Rule, as applicable to the facts of the present case, in view of the observations made by the Full Bench, is as follows:-

"As a consequence, it is directed that on account of striking down of the word 'unmarried' from the definition - (i) the same shall not effect any case, wherein compassionate appointment has already been granted under the provisions as they stood before this order; (ii) the same by itself would not provide a cause of action to any applicant and would apply to cases which are either pending before the competent authority and/or to the cases where litigation is pending on the date of this order only; (iii) the provisions and other requirements of the definition regarding the applicant being wholly dependent on the deceased government servant at the time of his/her death would be scrupulously applied; (iv) all the parameters as laid down by Hon'ble Supreme Court for grant of compassionate appointment, shall also be scrupulously

followed and that (v) all other provisions of the Rules except the inclusion of the 'married daughter' in the definition of 'dependent', shall have full application."

In view of the above, learned counsel for the petitioner submits that the petitioner is entitled to be considered for appointment on compassionate ground subject to verification of other conditions like dependency upon the deceased employee and a financial condition.

Learned counsel for respondent-BSA could not dispute the aforesaid fact.

Accordingly, the writ petition is **allowed**. The impugned order dated 03/06.08.2016 passed by the District Basic Education Officer is hereby quashed and set aside. The matter is remitted to respondent no. 2, namely the District Basic Education Officer, Siddharth Nagar, to consider the claim of the petitioner afresh, ignoring the delay, if any, and to decide the same on merits strictly in accordance with law, by passing a reasoned and speaking order. While doing so, the respondent authority shall consider the dependency and financial condition of the petitioner, as required under law, and shall keep in mind the aforesaid judgments, after affording an opportunity of hearing to the petitioner. The same shall be completed expeditiously, preferably within a period of **two months** from the date of production of a certified copy of this order, provided there is no legal impediment.

**(Mrs. Manju Rani Chauhan,J.)**

**January 14, 2026**

Rahul.