



HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 197 of 2026

Raj Kumari Devi

.....Appellant(s)

Versus

State Of Up And 4 Others

.....Respondent(s)

Counsel for Appellant(s) : Rajendra Prasad Tiwari, Ram Kumar Ojha
Counsel for Respondent(s) : C.S.C., Sanjay Kumar Singh

Court No. - 3

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.**

1. Heard Shri Rajendra Prasad Tiwari, learned counsel for the original petitioner/appellant, Shri Rajiv Gupta, learned Additional Chief Standing Counsel along with Shri Ankit Gaur, learned Standing Counsel for the State and Shri Sanjay Kumar Singh, learned counsel for the respondent nos.3 and 5.
2. The present is a unique case meriting special attention.
3. The brother-in-law (Dewar) of the original petitioner/appellant namely, Shailendra Kumar Bharti was an Assistant Teacher in Primary School, Jogideel, Ballia having worked at that institution for about 8 years. He met with a road accident and died-in-harness, on 07.06.2018. He left behind his wife, Shashilata and a minor daughter, Km. Saumya @ Shakshi aged two and half years. Misfortune of the family of Shailendra Kumar Bharti did not end there. His wife, Shashilata died on 10.07.2018, within a month, leaving behind the infant child, Km. Saumya @ Shakshi.
4. Thus, in the above extreme circumstances of the minor child being left with no family except her uncle and aunt (Chacha and Chachi), namely Ramesh Chandra Saxena and Raj Kumari Devi. The said Raj Kumari Devi has been appointed as guardian of Km. Saumya @ Shakshi, vide order dated 03.03.2021 passed by the Additional District Judge/Special Judge, Ballia in Case No.03 of 2019.

5. The trouble of Km. Saumya @ Sakshi has not ended. It has rather begun. The original petitioner/appellant applied for grant compassionate appointment to her, arising from the death of Shailendra Kumar Bharti in her capacity as aunt (Chachi) of Km. Saumya @ Sakshi daughter of Shailendra Kumar Bharti. That application made on 03.11.2025 was rejected vide order dated 13.11.2025 passed by the District Basic Education Officer, Ballia. The only reason to reject that application is that the original petitioner/appellant is not included within the term "family" as defined under Rule 2 (c) of the U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (hereinafter referred as 'the Rules').

6. On the surface, the order is informed with reason. Accordingly, the learned single judge has dismissed the writ petition, also.

7. However, upon hearing learned counsel for the parties and on examination of the Rules, it commends to us that there is *prima facie* merit in the claim made. It may not have been summarily rejected under the Rules. Rule 2 ((c) of the Rules is reads as below:-

"(c) "family" shall include the following relations of the deceased Government servant:

(i) Wife or husband;

(ii) Sons/adopted sons;

(iii) Unmarried daughters, unmarried adopted daughters widowed daughters and widowed daughter-in-law;

(iv) unmarried, brothers, unmarried sisters and widowed mother dependent on the deceased Government servant, if the deceased Government servant was unmarried;

(v) aforementioned relations of such missing Government servant who has been declared as "dead" by the competent Court;

Provided that if a person belonging to any of the above mentioned relations of the deceased Government servant is not available or is found

to be physically and mentally unfit and thus ineligible for employment in Government service, then only in such situation the word "family" shall also include the grandsons and unmarried granddaughters of the deceased Government servant dependent on him."

8. Then Rule 10 of the Rules reads as below:-

"10. Power to remove difficulties.- The State Government may, for the purpose of removing any difficulty (of the existence of which it shall be the sole judge) in the implementation of any provision of these rules, make any general or special order as it may consider necessary or expedient in the interest of fair dealing or in the public interest."

9. Undeniably, Rules providing for compassionate appointment are part of welfare legislation. The object of the Rules is to grant appointment on compassionate consideration to provide assistance to the bereaved family of the deceased employee, who may have been the sole bread winner of his family. For reason of that welfare measure, the validity of such Rules has always been upheld by Courts, though they stand by way of an exception to Article 16 of the Constitution of India.

10. Second, the Rules are enabling and not one to disable grant of compassionate appointment, where the family of a bereaved employee is left to fend for itself, at the risk of vagrancy and destitution.

11. Third, it is settled law that definition clauses such as the one under the Rules provide for definition of words, that may be normally used to give effect to the Rules except where the "context otherwise requires".

12. Fourth, Rule 2 (c) in the first place includes within scope of a family, the following relatives of the bereaved family, by relation namely: wife, husband, son or adopted son, daughters or unmarried brothers, unmarried sisters, widowed mother.

13. Fifth, by way of proviso, the legislature has itself contemplated that there may arise a situation where the above described relations of a deceased employee may not be available for grant of compassionate appointment. In that situation the legislative spirit and intent is clear. It is

not to deprive such a family the benefit of compassionate appointment but to enlarge the scope of family and to include (in that situation), grand sons and grand daughters of the deceased employee.

14. Sixth, by virtue of Rule 10 of the Rules, the State Government has retained to itself the power to remove any difficulty in giving effect to any 'provision' of the Rules, by making a general or special order, "in the interest of fair dealing or in public interest".

15. In view of the above preliminary discussion, it clearly appears to us that besides the welfare measure provided under the specific provisions of the Rules, the State Government has retained to itself the power to further enlarge scope of the proviso to Rule 2 (c) by issuing the special order, upon special facts being disclosed.

16. To the extent that power to remove difficulty is to be governed in the "interest of fair dealing or public interest", it seriously commends to us that the State Government is not divested of its powers to consider the extreme hardship being cited on behalf of Km. Saumya @ Sakshi, who would be about 9 years of age, today.

17. Therefore, it remains to be considered if such a writ petition may have been dismissed summarily.

18. Since time is of essence, we require Shri Rajiv Gupta, learned Additional Chief Standing Counsel to obtain written instructions from respondent no.1. The instructions would include appropriate order to be passed by the appropriate authority in terms of Rule 10 of the Rules read with proviso to Rule 2 (c) of the Rules, in the exceptional facts noted above. In that regard we may leave it to the State Government to pass a "special order" in the peculiar facts of this case. We expect such order to be passed within a week from today on merits, without raising any other objection of delay etc.

19. Put up as fresh on 27.02.2026 with liberty to the parties to mention the matter.

20. Copy of this order may be available to Shri Rajiv Gupta, learned

Additional Chief Standing Counsel during the course of the day, who may ensure timely compliance

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

February 19, 2026

S.P.