



2026:AHC:218013

A.F.R.

Reserved On: 22.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 1685 of 2025

Manisha Tyagi

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vijayendra Pratap Singh
Counsel for Respondent(s)	:	C.S.C., Jay Prakash Singh

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Awadh Narayan Rai, learned Advocate holding brief of Mr. Vijayendra Pratap Singh, learned counsel for the petitioner, learned Standing Counsel for the State as well as Mr. Jay Prakash Singh, learned counsel for respondent nos.2 and 3.

2. The present petition has been instituted challenging the order dated 14.11.2024 passed by the District Basic Education Officer, District-Saharanpur whereby the claim of the petitioner for appointment on compassionate grounds has been rejected.

3. Placing the brief facts of the case, learned counsel for the petitioner submits that the petitioner's father, namely, late Dharamveer Singh, was serving as an Assistant Teacher in a Primary Vidyalaya and died in harness on 14.05.2015. Thereafter, the petitioner submitted an application, along with all the relevant documents, before the concerned respondent on 17.05.2016, seeking appointment on compassionate grounds.

4. It is further submitted that, vide order dated 05.09.2016, the petitioner's claim for compassionate appointment was rejected by the respondents solely on the ground that she was a married daughter. Aggrieved by the said order, the petitioner instituted Writ Petition No.11255 of 2019 (Manisha Tyagi vs. State of U.P. And 2 Others) before this Court,

assailing the rejection of her claim for compassionate appointment.

5. The aforesaid writ petition was decided by this Court on 10.05.2024, whereby the order rejecting the petitioner's claim was quashed and the matter was remitted to the concerned respondent with a direction to consider the petitioner's claim afresh and to pass an appropriate order in accordance with law within a period of one month from the date of receipt of a certified copy of the order.

6. Learned counsel for the petitioner further submits that, in the aforesaid writ petition, the petitioner had specifically relied upon the judgment rendered by the Division Bench of this Court in **Special Appeal Defective No. 863 of 2015 (Neha Srivastava v. State of U.P. And Another)**, wherein the exclusion of a married daughter from the ambit of the expression "family" occurring in Rule 2(c) of the Uttar Pradesh Recruitment of Dependants of Government Servants Dying in Harness Rules was assailed as being arbitrary, discriminatory and in violation of Articles 14 and 15 of the Constitution of India.

7. It has been contended on behalf of the petitioner that the Division Bench of this Court, in **Writ-C No. 60881 of 2015 (Vimla Srivastava v. State of U.P.), decided on 04.12.2015**, examined the validity of the exclusion of a married daughter from the ambit of the expression "family" occurring in Rule 2(c) of the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974. The Division Bench held that the exclusion of married daughters merely on the ground of their marital status was arbitrary and unconstitutional, being violative of Articles 14 and 15 of the Constitution of India. Consequently, the word "unmarried" occurring in Rule 2(c)(iii) of the said Rules was struck down.

8. The aforesaid judgment, therefore, makes it clear that marital status, by itself, cannot constitute a valid ground for excluding an otherwise eligible daughter from consideration for compassionate appointment. The claim of the petitioner is accordingly required to be examined in the light of the law so declared, while keeping in view the other statutory requirements governing compassionate appointment.

9. Consequent upon the aforesaid declaration of law by the Division

Bench, the State Government issued the requisite notification dated 12.11.2021, whereby the word “unmarried” was omitted from Rule 2(c)(iii) of the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974. The statutory position, therefore, came to be aligned with the constitutional mandate and the law declared by this Court, rendering marital status no longer a disqualification for consideration of an otherwise eligible daughter for compassionate appointment.

10. Learned counsel for the petitioner, placing reliance upon the judgment of the Hon’ble Supreme Court passed in **Government of India And Another vs. Sri Devaraj URS Medical College**, reported in **2026 SCC OnLine SC 1479**, submits that the petitioner is entitled to consideration of her claim in the light of the law declared by this Court in **Vimla Srivastava (supra)**. It is contended that a declaration of law by a competent constitutional court ordinarily operates retrospectively unless the court, in express terms or by necessary implication, limits the operation of its declaration prospectively.

11. Placing particular reliance upon the aforesaid decision, learned counsel submits that where the Hon’ble Supreme Court has not expressly directed that its declaration of law shall operate prospectively, the settled position is that the law so declared is retrospective in its application. Accordingly, it is urged that the benefit of the law declared in **Vimla Srivastava (supra)** cannot be denied to the petitioner merely on the ground that her claim arose or was considered prior to the subsequent statutory amendment dated 12.11.2021.

12. Learned counsel for the petitioner, placing reliance upon the judgment of the Hon’ble Supreme Court passed in **Sayara Khatoon @ Shayara Khatoon and another v. State of Bihar and others**, reported in **2026 SCC OnLine SC 1466**, submits that, in view of the law declared in **Vimla Srivastava (supra)** and the subsequent statutory notification dated 12.11.2021, the petitioner cannot be denied consideration for compassionate appointment merely on account of her being a married daughter. The decision in **Vimla Srivastava (supra)** had already declared the exclusion of married daughters from the expression “family” under

Rule 2(c) of the Dying-in-Harness Rules to be unconstitutional and had struck down the word “unmarried” occurring in Rule 2(c)(iii).

13. It is, therefore, submitted that the petitioner is entitled, at the very least, to have her claim considered in accordance with the law declared in **Vimla Srivastava (supra)**, read with the notification dated 12.11.2021 and the principles reiterated by the Hon’ble Supreme Court in the case of **Sayara Khatoon (supra)**. The consideration of her claim cannot be foreclosed solely by reference to her marital status; the competent authority is required to examine her eligibility, dependency and the other requirements prescribed under the applicable rules.

14. The second ground assigned in the impugned order for rejecting the petitioner’s claim is that the application for compassionate appointment was made after a lapse of six years from the date of death of the deceased employee and was, therefore, barred by limitation. The said reasoning, however, cannot be sustained on the facts of the present case.

15. Learned counsel for the petitioner submits that from the record it is clear that the petitioner had submitted her application for compassionate appointment on 17.05.2016, well within the period prescribed under the applicable rules. The petitioner’s claim was not rejected on the ground of delay or limitation at the relevant stage; rather, the claim was declined on the premise that, being a married daughter, she did not fall within the ambit of the expression “family” under the Dying-in-Harness Rules. Thus, the petitioner cannot be made to suffer for the lapse attributable to the respondents in considering or deciding her claim.

16. Once the petitioner had approached the competent authority within the prescribed period, the subsequent passage of time occasioned by the respondents’ consideration and rejection of her claim cannot be treated as a delay attributable to the petitioner. The objection of limitation, therefore, proceeds on an erroneous factual premise and cannot furnish a valid ground for rejection of the petitioner’s claim.

17. In view of the aforesaid submissions, it is contended that the impugned order, insofar as it declines to consider the petitioner’s claim for compassionate appointment merely on the ground of her marital

status, is unsustainable in law. The order, having been passed in disregard of the law declared by this Court in **Vimla Srivastava (supra)** and the subsequent statutory notification dated 12.11.2021, suffers from arbitrariness and unreasonableness and is, therefore, liable to be set aside.

18. Learned counsel for the respondents submits that, following the death of the petitioner's father on 14.05.2015, the petitioner applied for compassionate appointment to the post of Assistant Teacher at the primary level on 17.05.2016.

19. Thereafter, by letter dated 05.09.2016, the then District Basic Education Officer informed the petitioner that, although she was a graduate, passing the Teacher Eligibility Test was a mandatory qualification for appointment to the post of teacher. It was further observed that, according to the family member certificate dated 11.06.2015, the deceased employee had left behind five dependents, including a married daughter. Accordingly, in view of the applicable Government Orders and relevant rules, the petitioner was held ineligible for compassionate appointment on the grounds that she was a married daughter and did not possess the requisite educational qualifications.

20. Aggrieved by the aforesaid decision, the petitioner filed Writ Petition No.11255 of 2019 (Manisha Tyagi vs. State of U.P. And 2 Others), which was disposed of by order dated 10.05.2024, whereby the matter was remitted to the District Basic Education Officer for fresh consideration in the light of the law laid down in **Neha Srivastava (supra)**. In compliance with the aforesaid order, the District Basic Education Officer passed an order dated 29.07.2024, deciding the petitioner's claim afresh.

21. Learned counsel for the respondents further submits that, under Clause 8 of the Government Order dated 04.09.2000, an application for compassionate appointment is required to be considered within five years from the date of death of the deceased employee. It is, therefore, contended that the petitioner's claim is barred by the prescribed period and is not liable to be considered.

22. It is further submitted that the petitioner's claim had already been rejected on the grounds of her being a married daughter and her failure to

possess the requisite educational qualifications, whereas the subsequent notification relied upon by her came into existence thereafter. Accordingly, learned counsel for the respondents submits that the petitioner is not entitled to be considered for compassionate appointment.

23. Having bestowed anxious consideration to the rival submissions, the material brought on record and the legal position governing the controversy, this Court finds that the impugned order cannot be sustained either on the ground on which the petitioner's claim for compassionate appointment has been rejected or on the purported ground of delay.

24. The principal foundation of the impugned order is that, being a married daughter, the petitioner did not fall within the ambit of the expression "family" contemplated under Rule 2(c) of the Uttar Pradesh Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974. Such an approach, however, is rendered wholly untenable in view of the authoritative pronouncement of the Division Bench of this Court in **Writ-C No. 60881 of 2015 (Vimla Srivastava v. State of U.P.), decided on 04.12.2015**. The Division Bench, upon examining the constitutional validity of the exclusion of married daughters from the expression "family", held such exclusion to be impermissible, being violative of Articles 14 and 15 of the Constitution of India, and consequently struck down the word "unmarried" occurring in Rule 2(c)(iii) of the Rules.

25. The declaration in **Vimla Srivastava (supra)** was not an isolated judicial pronouncement divorced from the statutory scheme; rather, the State Government itself, in recognition of the legal position so declared, issued the notification dated 12.11.2021, whereby the word "unmarried" was omitted from the aforesaid statutory provision. The legislative and executive response thus brought the text of the Rules into consonance with the constitutional principle that marital status, by itself, cannot furnish a disqualification to an otherwise eligible daughter seeking consideration for compassionate appointment.

26. The subsequent judicial pronouncements relied upon by learned counsel for the petitioner reinforce the aforesaid legal position. In the case

of **Sri Devaraj Urs Medical College(supra)**, the Hon'ble Supreme Court reiterated the settled principle concerning the temporal operation of a declaration of law, namely, that unless the Court expressly confines its pronouncement to prospective operation, a declaration of law ordinarily governs the legal position from its inception. Likewise, reliance has been placed upon the judgment of the Hon'ble Supreme Court in the case of **Sayara Khatoon (supra)**, in support of the proposition that the claim of a married daughter cannot be non-suited merely by invoking her marital status when such exclusion stands contrary to the law declared by a constitutional court and the statutory position subsequently brought into conformity therewith.

27. Consequently, the petitioner's claim could not have been rejected by treating her marital status as an insurmountable disqualification. The fact that the statutory amendment/notification came subsequently cannot, by itself, efface the legal consequence flowing from the earlier declaration of law in **Vimla Srivastava (supra)**. A subsequent formal amendment bringing the statutory text into conformity with the constitutional position cannot be construed as conferring, for the first time, a right which had otherwise been legally unavailable; rather, it evidences the consequential alignment of the statutory framework with the law already declared by this Court.

28. The second reason assigned in the impugned order, namely, that the petitioner's application was barred by limitation as it was allegedly submitted after six years from the death of the deceased employee, is equally bereft of factual and legal foundation. The record demonstrates that the petitioner had submitted her application for compassionate appointment on 17.05.2016. Thus, it cannot legitimately be said that the petitioner slept over her claim or approached the competent authority after an unexplained or inordinate delay. On the contrary, she had invoked the compassionate appointment mechanism within the relevant period. Her claim came to be rejected on the substantive ground that, being a married daughter, she did not fall within the definition of "family". The intervening passage of time, therefore, cannot be converted into a disability against the petitioner when such passage was occasioned by the consideration and eventual rejection of her claim by the respondents.

29. It is equally well settled that, while considering a claim for compassionate appointment, the relevant circumstances are to be assessed with reference to the time when the right to seek such consideration arose and when the dependent approached the competent authority in accordance with the applicable rules. The date of subsequent rejection cannot be retrospectively employed as the determinative point for assessing whether the claimant had approached the authority within time. To permit the respondents to take advantage of the time consumed in their own administrative process would amount to converting an administrative delay into a disqualification against the claimant. Such an approach would be manifestly inequitable and legally unsustainable.

30. In the present case, therefore, there is neither any demonstrable delay attributable to the petitioner nor any basis for treating her application dated 17.05.2016 as belated. The petitioner had already asserted her claim within the prescribed framework. The subsequent rejection of that claim on the ground of marital status, which was itself contrary to the constitutional principle enunciated in the case of **Vimla Srivastava (supra)**, cannot be employed to defeat her claim by subsequently characterizing the matter as one of delay.

31. This Court is, therefore, of the considered view that the impugned order suffers from a fundamental legal infirmity. It proceeds upon a criterion which had been judicially declared constitutionally impermissible and, in addition, proceeds upon an erroneous attribution of delay to the petitioner notwithstanding her application dated 17.05.2016. The order, thus, fails to withstand the test of legality, reasonableness and constitutional fairness and is liable to be interdicted.

32. Accordingly, the impugned order dated 14.11.2024, to the extent it rejects the petitioner's claim solely on the ground of her being a married daughter, is hereby **quashed**.

33. The matter is remitted back to respondent no.3-District Basic Education Officer, for fresh consideration of the petitioner's claim of appointment on compassionate ground, in accordance with the 1974 Rules and the law declared in **Vimla Srivastava (supra)**, as subsequently

reinforced by this Court in **Writ-A No.8368 of 2022 (Chetna Devi vs. State of U.P. and 5 others)**, **decide on 11.08.2022** and the constitutional principle enunciated by the Hon'ble Supreme Court in **Sayara Khatoon (supra)**. Such reconsideration shall be undertaken uninfluenced by the petitioner's marital status and after examining all other relevant statutory requirements, including dependency, financial condition of the family, qualification as she possessed at the time of moving the initial application dated 17.05.2016, availability of a suitable post and any other condition legitimately applicable to the claim.

34. It is, however, made clear that the petitioner shall not be treated as having acquired an automatic right to appointment merely by virtue of this judgment. The present determination is confined to the legality of the exclusion of her claim on the sole ground of marital status. The competent authority shall undertake the remaining exercise in accordance with law and pass a reasoned and speaking order within eight weeks from the date of production of a certified copy of this judgment.

The writ petition is, accordingly, **allowed** to the aforesaid extent.

35. There shall be no order as to costs.

(Mrs. Manju Rani Chauhan,J.)

October 16, 2026

K.N.