

Court No. - 33

Case :- WRIT - A No. - 31316 of 2014

Petitioner :- Smt. Amita Mukhi

Respondent :- State of U.P. and others

Counsel for Petitioner :- R.K. Singh Rajpoot

Counsel for Respondent :- C.S.C.

Hon'ble J.J. Munir,J.

Perused the report of the Registrar General dated 08.11.2023 and the preliminary inquiry report dated 08.11.2023 submitted by the Joint Registrar (J) CPC. In view of the fact that a copy of the order dated 30.05.2014 passed by Hon'ble Mr. Justice B. Amit Sthalekar is available in the database, no further orders are required to be made in the matter. This part of the matter stands closed.

2. Parties have exchanged affidavits.

3. Admit.

4. Heard forthwith.

5. Heard Mr. R.K. Singh Rajpoot, learned Counsel for the petitioner and Mr. Akhilesh Kumar Tripathi, learned Standing Counsel appearing on behalf of all the respondents.

6. The petitioner's father in law, the late Barsati, was employed as Cane Supervisor under the District Cane Officer, Basti. He died in harness on 14.07.2012. He left behind him his widow, Savari Devi, son Surendra Kumar, married daughters, Smt. Jyoti and Smt. Maya, an unmarried daughter Km. Sarita and his son's wife Smt. Amita Mukhi wife of Surendra Kumar as his heirs and legal representatives.

7. This writ petition is preferred by Smt. Amita Mukhi, the late Barsati's daughter-in-law. She has staked claim for compassionate appointment on account of her father-in-law's death in harness. The said

claim has come to be rejected by means of the impugned order dated 30.04.2014 passed by the District Cane Officer, Basti on ground that she is not one of the family members of the deceased within the meaning of Rule 2(c) of the U.P. Recruitment of Dependents of Government Servants (Dying in Harness) Rules, 1974*.

8. Learned Counsel for the petitioner has assailed this order, saying that the petitioner is a member of the deceased employee's family, and considering the amended definition of 'family' brought about by notification dated 22.12.2011, a daughter-in-law is included in the definition of 'family'. He submits that the amendment came on 22.12.2011, whereas Barsati died on 14.07.2012. Learned Counsel emphasizes, therefore, that the definition of 'family' under Rule 2(c) of the Rules of 1974 would be that as obtaining after the amendment made on 22.12.2011.

9. Rule 2(c), as amended *vide* Notification No. 6/XII-1973-Personnel-2-2011, T.C.-IV, dated 22nd December, 2011 reads :

(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 dependant 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 abovementioned 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

* 'Rules of 1974' for short

the grandsons and the unmarried granddaughters of
the deceased Government servant dependant on him.

(emphasis by Court)

10. The Rules would show that the daughter-in-law included in the definition of 'family' under Rule 2(c), means a widowed daughter-in-law. In this case, the petitioner was a not widowed daughter-in-law, and therefore, not included in the family of the deceased Government servant under Rule 2(c) of the Rules of 1974.

11. The learned Counsel for the petitioner has emphasized that by the Amendment of 2011 and further by the Uttar Pradesh Recruitment of Dependants of Government Servants Dying In Harness (Twelfth Amendment) Rules, 2021, daughter-in-law has been included in the definition of family under Section 2(c). There is no such change brought about either by the 2011 Amendment to the Rules of 1974 or by the Amendment of 2021, which may include a daughter-in-law other than one, who is a widowed daughter-in-law, on the date of death of the deceased Government servant. Reference in this connection may be made to the decision of this Court in **Neelam Mishra v. State of U.P. and others, 2023 (4) ALJ 419**, where it has been held:

“**15.** Further, definition clause of the Rules, 1974 specifically include widowed daughter-in-law and not the daughter-in-law whose husband is alive. This Court will not supplant the definition clause to include the daughter-in-law whose husband is alive within the scope of the definition of the family of the deceased.”

12. In this view of the matter, the impugned order cannot be faulted. There is no force in this petition. It is, accordingly, dismissed.

13. There shall be no order as to costs.

Order Date :- November 9, 2023

I. Batabyal

(J.J. Munir, J.)

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