

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 5224 of 2023

Applicant :- Smt. Manjesh

Opposite Party :- Brahmdev, Director Of Education (Higher)
Education Degree (Arth-1)

Counsel for Applicant :- Yogendra Pal Singh

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 16.01.2018 in Writ-A No.2117 of 2018 had passed the following order:-

"Smt. Manjesh wife of Amit Saini is before this Court assailing the order dated 12.12.2017 passed by the Asstt. Director (Higher Education) on behalf of Director of Education (Higher Education), U.P. Allahabad by which the claim of the petitioner for compassionate appointment in place of her mother under Dying-in-Harness Rules has been rejected on the ground that under the relevant Government Orders there is no provision to accord employment to married daughters in place of deceased government servant.

At the very outset, learned counsel for the petitioner submits that the order impugned is in teeth of judgment passed by this Court in Smt. Vimla Srivastava v. State of U.P. & Anr., 2016 (1) ADJ 21 (DB), wherein the Division Bench of this Court has considered the expression "family" in Dying-in-Harness Rules and found that the claim of married daughter is also sustainable. It is also contended that in the light of the judgment passed by this Court in Smt. Vimla Srivastava (Supra) relevant Rules have already been amended and rights of 'married daughters' have also been acknowledged and now married daughters are also liable to get compassionate appointment in place of bread-earner. He further apprises to the Court that so far as other two sisters of the petitioner are concerned, they have also given no objection certificate in favour of the petitioner as the husband of the petitioner is Labourer and is not gainfully employed. As such it is prayed that the claim of the petitioner for compassionate appointment may also be considered.

Shri P.K. Pandey, learned Standing Counsel very fairly states that so far as factual and legal aspect is concerned, while passing the order impugned at no point of time the aforesaid judgment as well as the amended Rules have been considered by the competent authority.

In the aforesaid facts and circumstances, this Court is of the considered opinion that the order impugned cannot sustain and the same is accordingly set aside. The writ petition is allowed. The matter is remitted back to the competent authority to redress the grievance of the petitioner in accordance with law relying on the aforesaid judgment in Smt. Vimla Srivastava (Supra) as well as amended Rules in this regard expeditiously and preferably within

two months from the date of production of certified copy of this order."

An affidavit of compliance has been filed on behalf of the opposite party, which is taken on record.

In para 8 of the said affidavit, it has been stated that the representation of the applicant has been decided on 27.10.2023, copy of which has been brought on record as Annexure 1 to the affidavit of compliance.

As the writ Court had remitted back the matter to the opposite party for taking decision afresh, which the authority has taken the decision, present contempt application is rendered infructuous and the same stands dismissed.

However, it is open to the applicant to assail the order passed by the opposite party before the appropriate forum, if so advised.

Order Date :- 30.10.2023

SK Goswami