

Court No. - 36

Case :- WRIT - A No. - 15328 of 2023

Petitioner :- Riddhi Gupta

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- C.S.C., Shivendra Singh Bhadauria

Hon'ble Manjive Shukla, J.

1. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri Himanshu Singh, learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No.1 and 2 as well as Sri Shivendra Singh Bhadauria, learned counsel appearing for the Respondents No.3 and 4.

2. Facts of the case, in brief, are that mother of the petitioner, Smt. Anupam Gupta, while working as Assistant Teacher in Senior Basic School at district Rampur, died in harness on 3.5.2022. Petitioner immediately submitted an application for her compassionate appointment in place of her mother, but till date application submitted by the petitioner has not been decided by the District Basic Education Officer, Rampur.

3. Learned Senior Advocate appearing for the petitioner has invited attention of this court towards a letter dated 13.1.2023 written by the District Basic Education Officer, Rampur, whereby he has sought guidance from the Secretary, U.P. Basic Education Board, Prayagraj on the point as to whether the married daughters are covered under the definition of dependent for the purposes of compassionate appointment.

4. Learned Senior Advocate appearing for the petitioner has vehemently argued that guidance sought vide letter dated 13.1.2023 is absolutely misconceived as initially under the U.P. Recruitment of Dependent of Government Servants (Dying in Harness) Rules, 1974, under the definition of family, only unmarried daughters were included but later on, this court as well as the Hon'ble Supreme Court decided matters, whereby it was provided that married daughters cannot be excluded from the definition of family and thereafter, the aforesaid Dying in Harness Rules, 1974 have been amended and in place of "unmarried daughter", "daughter" has been placed. Learned Senior Advocate appearing for the petitioner has also argued that once the rule making authority has amended the rules, there

is no scope for any kind of confusion at the end of District Basic Education Officer, Rampur.

5. Lastly, learned Senior Advocate appearing for the petitioner has argued that the application for compassionate appointment filed by the petitioner cannot be kept pending by the District Basic Education Officer, Rampur for any reason whatsoever as the basic philosophy behind the compassionate appointment is that such appointments are made to overcome the instant financial crisis suffered by the family of the deceased government servant, therefore the application for compassionate appointment is bound to be decided at the earliest.

6. On the other hand, Sri Shivendra Singh Bhadauria, learned counsel appearing for the Respondents No.3 and 4 has submitted that though the District Basic Education Officer, Rampur vide his letter dated 13.1.2023 has sought guidance from the Secretary, U.P. Basic Education Board, Prayagraj but within a reasonable time, application for compassionate appointment of the petitioner shall be considered and decided by the District Basic Education Officer, Rampur.

7. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is finally disposed of with direction to the District Basic Education Officer, Rampur to consider and decide petitioner's application for compassionate appointment within a period of two months from the date of service of certified copy of this order.

Order Date :- 31.10.2023

Salim