

Court No. - 34

Case :- WRIT - A No. - 19307 of 2023

Petitioner :- Sanjay Kumar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Dileep Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard learned counsel for the parties.
2. By means of this petition, petitioner has questioned the decision of the authority dated 02.08.2023 whereby claim of the petitioner for compassionate appointment has been rejected on the ground that he is a married brother of the deceased employee.
3. Learned Standing Counsel submits that within the definition of family of the dependants of the deceased given under the UP Recruitment of Dependent of Government Servant Dying in Harness Rules, 1974 (in short, 'Dying in Harness Rules, 1974'), married brother is not included. It is the unmarried brother only who is entitled to compassionate appointment.
4. Having heard learned counsel for the respective parties and having perused the order impugned and pleadings raised in the writ petition and the relevant provisions contained in the Rules, 1974, I find that the Dying in Harness Rules, 1974 do not include married brother within the definition of family of the dependants of the deceased. The relevant Rule 2(c) of Dying in Harness Rules, 1974 (amended on 12.10.2001) is extracted hereasunder:

"2. (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 the grandsons and the unmarried grand-daughters of the deceased Government servant dependant on him.

(d) "Head of Office" means Head of Office in which the deceased Government servant was serving prior to his death."

(emphasis added)

5. In view of the above, petitioner, who is a married brother, cannot claim compassionate appointment and hence, I do not find any manifest error in the order impugned.

6. Petition lacks merit and is, accordingly, dismissed.

Order Date :- 22.11.2023

P Kesari