

Court No. - 8

Case :- WRIT - A No. - 4481 of 2023

Petitioner :- Rekha Rani Shukla

Respondent :- State Of U.P. Thru. Prin. Secy. Irrigation Deptt. Lko. And 4 Others

Counsel for Petitioner :- Raj Kumar Pandey, Vivek Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Raj Kumar Pandey, learned counsel for the petitioner and Sri R.P. Singh Chauhan, learned Additional Chief Standing Counsel.

2. The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner seeking quashing of the order dated 31.12.2022, whereby the petitioner's request for giving the benefit of Old Pension Scheme has been rejected on the ground that the petitioner was appointed on 25.5.2005 under The U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (for short Dying in Harness Rules) on Class-IV post and in pursuance to the said appointment offered to the petitioner, she joined the services only on 13.6.2005, whereas the New Pension Scheme has commenced from 01.04.2005.

3. The only ground which has been taken in this writ petition, is that after demise of the husband of the petitioner on 15.5.2002 in harness, the petitioner gave the application on 10.6.2002, but the appointment could be made only on 25.5.2005. If the petitioner would have been appointed on the date of application, she would be entitled for Old Pension Scheme. There is no provision in the statutory rules that an employee should be given appointment on the date of application under the Dying in Harness Rules. For giving appointment under the Dying in

Harness Rules, there has to be vacancy and the appointments are made only to the limited extent. A person cannot seek appointment on the date of application itself.

4. In view thereof, I find no substance and merit in this writ petition, which is hereby ***dismissed***.

Order Date :- 4.7.2023

Rao/-