

Court No. - 20

Case :- WRIT - A No. - 27674 of 2016

Petitioner :- Sumitra

Respondent :- State Of U.P.Thr Prin.Secy.Lok Nirman Vibhag
Govt.Of Upandors

Counsel for Petitioner :- Anand Mani Tripathi

Counsel for Respondent :- C.S.C.,Arvind Kumar Pathak

Hon'ble Manish Mathur,J.

1. Heard Mr. P. Ventikesh learned counsel holding brief of Mr. Anand Mani Tripathi, learned counsel for petitioner, learned State Counsel for opposite party nos. 1 to 4 & 6 and Mr. Arvind Kumar Pathak, learned counsel for private opposite party no. 5, Sri Chand Ram @ Jitendra Kumar.

2. Petition has been filed challenging order dated 19.09.2016 whereby petitioner's application for compassionate appointment in lieu of husband late Surendra Pal has been rejected. Further relief for a direction to opposite parties to consider petitioner's claim for compassionate appointment in terms of extant rules has also been sought.

3. It has been submitted that petitioner is the wife of late Surendra Pal who passed away in service on 14.12.2015 leaving behind petitioner and other family members such as the petitioner as widow and three children, two of whom were minors. It is submitted that petitioner as well as children were fully dependent on her husband and in view of financial distress being faced, filed an application on 17.12.2015 for compassionate appointment which has been rejected by means of impugned order.

4. On 21.11.2016, this Court had passed the following order:-

"Heard learned counsel for the parties.

Considering the facts and issue involved herein the petitioner is directed to implead the District Magistrate, Hardoi as an opposite party in the writ petition during the course of the day.

A peculiar factual scenario has presented itself before the Court. Vide Annexure No. 1 and the documents annexed thereto it is said that Sumitra wife of Late Surendra Pal died way back on 10.04.1992, however, the petitioner claiming herself to be Sumitra the wife of late Surendra Pal is before the Court by means of this writ petition annexing therewith a ration card, voter identity card, succession certificate issued from the Office of

the District Magistrate, Hardoi, Domicile Certificate issued from the Office of S.D.M., Bilgram, District Hardoi, Caste Certificate issued by the concerned officials of the State Government.

Her claim for compassionate appointment has been declined on the ground mentioned earlier, but, the facts stated in the writ petition and documents annexed present a picture in contradiction.

Let the District Magistrate, Hardoi hold an inquiry into the matter and submit a report before this Court within a period of six weeks. The impugned order shall abide by further orders in this writ petition.

List this case on 17.01.2017 as fresh"

5. In pursuance of the aforesaid directions, report dated 03.01.2017 by the District Magistrate, Hardoi has been brought on record by means of counter affidavit. A perusal of same indicates that the District Magistrate has recorded a finding after appreciation of evidence that the name of first wife of deceased was in fact Smt. Sumitra Devi and petitioner's actual name is Guddi Devi which was changed to Smt. Sumitra Devi. The report also indicates that the first wife passed away on 10.04.1992 whereafter Surendra Pal entered into marriage with the petitioner who in fact is his second wife. The report also indicates that opposite party no. 5 is the son of Surendra Pal from his first wife Smt. Sumitra Devi.

6. No objections to the aforesaid report have been filed by any party to the dispute and therefore the report clearly indicates the fact that petitioner is the second wife of late Surendra Pal while opposite party no. 5 is his son from the first wife.

7. Learned counsel for petitioner as well as opposite party no. 5 have submitted upon instructions that the said parties to the dispute have already entered into a compromise.

8. Considering the undisputed facts as brought on record by means of report dated 03.01.2017, it being clear that petitioner and opposite party no. 5 are heirs of the deceased, the impugned order dated 19.09.2016 is hereby quashed by issuance of writ in the nature of certiorari directing the opposite party no. 4 i.e. Executive Engineer, Nirman Khand No. 2, Lok Nirman Vibhag, Headquarters Bilgram, District Hardoi or any other competent authority to consider the claim of petitioner afresh for compassionate appointment in the light of report dated 03.01.2017. Opposite party no. 4 shall also consider grant of benefits as admissible to heirs of late Surendra Pal by the same order. Claim of opposite party no. 5 shall also be considered by the opposite party no. 4 and final decision shall be taken within a period of two months from the date a certified copy of this order is produced before the concerned authority.

9. Resultantly, petition succeeds and is **allowed** to the aforesaid extent. Parties to bear their own cost.

Order Date :- 16.11.2023
Satish