

Court No. - 7

Case :- WRIT - A No. - 8001 of 2023

Petitioner :- Pooja

Respondent :- State Of U.P. Thru. Secy. Madhmamik Siksha Parishad U.P. Lko. And 3 Others

Counsel for Petitioner :- Avinash Pandey,Rahul Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin,J.

1. Heard.
2. Instant writ petition has been filed praying for a Mandamus commanding the respondents to appoint the petitioner under the Uttar Pradesh Government Servant Dying-in-harness Rules, 1974 (hereinafter referred to as "Rules, 1974").
3. The contention of learned counsel for the petitioner is that the petitioner is an unmarried daughter of Sri Ram Adhar, who was working as Peon under the respondent no. 4 and died in harness on 13.09.1999. After his death, the brother of the petitioner namely Sri Rajesh Kumar was appointed in the office of respondent no. 4-School.
4. It is stated that even the brother of the petitioner died on 28.10.2003. As he was married, the mother of the petitioner preferred an application for appointment of her daughter in law (wife of Sri Rajesh Kumar) vide application dated 16.08.2004, a copy of which is annexure 2 to the writ petition. A bald averment has been made that she was appointed.
5. After a period of almost twenty years from the death of her brother and twenty four years from the date of her father, the instant writ petition has been filed claiming compassionate appointment.
6. From a perusal of aforesaid, it is apparent that on account of death of petitioner's father, her brother had been appointed on compassionate ground under dying in harness rules . It is only after the death of her brother that the petitioner claims compassionate appointment.
7. In terms of Rule 2 (C) of the Rules, 1974, the family includes wife or husband, sons or adopted sons; daughter (including adopted daughters) and widowed daughters-in-law; Unmarried brothers, unmarried sisters and widowed mother dependent on the deceased Government servant.

7. As the brother of the petitioner had been appointed upon the death of his father consequently, there cannot be any occasion for the respondents to appoint the petitioner on compassionate ground upon the death of her father more particularly when her brother has already been appointed. There cannot be any compassionate appointment of the petitioner on the death of her brother as considering Rule 2 (c) (i) of the Rules, 1974 it is the wife of Sri Rajesh Kumar who could have been appointed on compassionate grounds. Even if, Sub rule (4) of Rule 2 of the Rules, 1974 is to be considered a situation of appointment of the petitioner would only arise in case Sri Rajesh Kumar would have been unmarried but, as already indicated above, Sri Rajesh Kumar was married whereby only his widow could have been appointed on compassionate ground for which an application has already been given by the mother of the petitioner.

9. Keeping in view the aforesaid discussion, no case for issuing any direction for compassionate appointment is made out. Accordingly, the writ petition is dismissed.

Order Date :- 13.10.2023

Pachhere/-