

A.F.R.

Neutral Citation No. - 2024:AHC-LKO:54501

Court No. - 4

Case :- WRIT - A No. - 3071 of 2023

Petitioner :- Satya Prakash

Respondent :- State Of U.P. Thru. Prin. Secy. Public Works Deptt.
Lko. U.P. And 2 Others

Counsel for Petitioner :- Megha Pandey

Counsel for Respondent :- C.S.C., Girjesh Kumar Mishra, Pawan
Kumar Nigam, Ram Babu Singh

With

Case :- WRIT - A No. - 6248 of 2023

Petitioner :- Smt. Rinki

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Public Works
Deptt. Lko. And 2 Others

Counsel for Petitioner :- Pawan Kumar Nigam, Girjesh Kumar
Mishra, Megha Pandey, Ram Babu Singh

Counsel for Respondent :- C.S.C.

Hon'ble Rajesh Singh Chauhan, J.

(I.A. No. 3 of 2023 in re: Writ-A No. 6248 of 2023)

Heard.

On due consideration, the application for impleadment is allowed.

Let the necessary impleadment be carried out during the course of the
day.

(I.A. No. 6 of 2024 in re: Writ-A No. 3071 of 2023)

Heard.

On due consideration, the application for impleadment is allowed.

Let the necessary impleadment be carried out during the course of the
day.

(Order on the Writ Petitions)

1. Heard Ms. Megha Pandey, learned counsel for the writ petitioner in re: Satya Prakash (supra), Shri R.P.S. Chauhan, learned Additional C.S.C. for the State-respondents and Shri Pawan Kumar Nigam, learned counsel for newly impleaded opposite party no. 4 i.e., Smt. Rinki.

2. Shri Nigam has argued the second writ petition in re: Smt. Rinki (supra) on behalf of the petitioner, Shri R.P.S. Chauhan, learned Additional C.S.C. and Smt. Megha Pandey, learned counsel for newly impleaded opposite party no. 4 i.e., Satya Prakash.

3. In the writ petition in re: Satya Prakash (supra), the following prayer has been sought which reads as under:

“1. Issue a writ, order or direction in the nature of Mandamus commanding the respondents to consider and grant compassionate appointment to the petitioner under the Scheme of U.P. Recruitment of Dependents of Government Servants (Dying in Harness) Rules, 1974 as amended up-to- date.

2. Issue any other suitable order or direction, in the nature to which this Hon'ble Court deems just and proper in favour of the petitioner.

3. Allow the writ petition with cost.”

4. In writ petition in re: Smt. Rinki (supra), the following prayer has been sought which reads as under:

“(i) Issue a writ, order or direction in the nature of Mandamus directing the opposite parties to make appointment of the petitioner on suitable post in the office of opposite party Nos. 2 & 3 on the basis of on compensate ground under dying in harness Rule 1972.

(ii) Issue any other Writ, Order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iii) Award the cost of the Petition in favor of the petitioner.”

5. At the very outset, learned Standing Counsel has drawn attention of this Court towards the letter dated 30.10.2023 passed by the Executive Engineer (Indo-Nepal Border), Public Works Department, Lakhimpur Kheri, U.P. (hereinafter referred to as 'opposite party no.3' in short) addressing to Smt. Rinki apprising that since both the aforesaid writ petitions are pending before this Hon'ble High Court, therefore, any decision in the present matter may be taken after final disposal of the aforesaid writ petitions. The aforesaid letter is taken on record.

6. Learned counsel for the parties in both the writ petitions have agreed to club the writ petitions together and decide the same by the common order and, therefore, both the writ petitions are being decided finally by the common order.

7. Ms. Megha Pandey has precisely apprised the brief facts of the case that the petitioner Satya Prakash was the real younger brother of the deceased employee namely, Late Chandra Prakash who was serving on the post of Personal Assistant in the Public Works Department under the opposite party no.3 and he died in harness on 27.8.2022. At the time of the death of his brother, Late Chandra Prakash, his old aged parents and the petitioner Satya Prakash were dependent upon him. The petitioner Satya Prakash is unmarried and unemployed. Besides the petitioner Satya Prakash, there are three sisters of Late Chandra Prakash, out of them one has got married and two sisters are still unmarried, therefore, in the entire family, there were total five persons including the petitioner Satya Prakash were dependent upon the deceased employee Late Chandra Prakash.

8. Ms. Megha Pandey has further stated that the petitioner Satya Prakash is a graduate and is eligible for the benefit of the compassionate appointment under the U.P. Recruitment of Dependents of Government Servant (Dying in Harness) Rules, 1974

(hereinafter referred to as "Dying in Harness Rules, 1974") as he fulfills all required qualifications to get the benefit of the compassionate appointment.

9. Ms. Megha Pandey has drawn attention of the Court towards the supplementary affidavit filed on 27.07.2023 enclosing therewith a copy of the interim settlement agreement entered into between Late Chandra Prakash and his wife, Smt. Rinki. The perusal thereof reveals that though Late Chandra Prakash was married to Smt. Rinki on 15.12.2013 but their matrimonial relationship was not well, therefore, they were living separately and Smt. Rinki Pandey has filed some cases against him.

10. She has further stated that a writ bearing Criminal Misc. Writ Petition No. 16472 of 2020 was filed by the said Late Chandra Prakash and the matter was referred to the Mediation & Conciliation Centre of the Court at Allahabad on 05.01.2021. The interim settlement was entered into between the parties on 20.04.2022, on which date Late Chandra Prakash produced the demand draft of Rs. 1,50,000/- dated 11.4.2022 in favour of his wife, Smt. Rinki Pandey before the Mediation Centre and also produced a demand draft of Rs. 30,000/- dated 02.05.2022 and both the demand drafts (total Rs. 1,80,000/-) have been handed over to the wife, i.e., Smt. Rinki Pandey who acknowledged the receipt of the same. Thereafter, the parties have filed mutual divorce petition before the court concerned on the condition that the husband Chandra Prakash shall pay Rs. 3,60,000/- against one time settlement and the aforesaid amount would be given to Smt. Rinki Pandey in two installments. That amount was consisting the *streedhan* also. The mediators were informed that the parties filed mutual divorce petition bearing No. 767 of 2022, under Section 13-B of the Hindu Marriage Act before the Principal Judge, Family Court, Allahabad. She has further

submitted that during the pendency of the mediation proceedings, the husband Chandra Prakash died on 27.08.2022, therefore, the remaining amount of Rs. 1,80,000/- could not be paid.

11. Though Smt. Rinki, as per the learned counsel, was willing to take divorce from her husband after receiving the aforesaid amount of Rs. 1,80,000/- but after the death of her husband, Chandra Prakash on 27.08.2022, she changed her mind saying that she does not want to receive any money under the settlement but wishes to obtain compassionate appointment against the death of her estranged husband, Chandra Prakash.

12. Notably, the FIR bearing Case Crime No. 133 of 2020, under section 498A, 323, 504, 506 IPC & Section 3 /4 of the Dowry Prohibition Act, Police Station- Mahila Thana, District- Prayagraj was lodged by Smt. Rinki, wherein the charge-sheet has been filed against all family members of Chandra Prakash (since deceased). Hence, the Application U/S 482 No. 36791 of 2022 (Vidhya Devi and 7 others vs. State of U.P. and another) has been filed before this Court at Allahabad, wherein the interim orders have been granted. Two orders dated 10.02.2023 and 24.02.2023 thereof are relevant, therefore, those orders are being reproduced herein under respectively:

“1. Upon hearing at some length, it transpires, the matter had earlier been referred to mediation on 5.1.2021. Settlement was reached between the opposite party no. 2 and Chandra Prakash (son of applicant nos. 1 and 2) with respect to matrimonial discord between those parties.

2. Perusal of the settlement reached, reveals, those parties had agreed to dissolve their marriage. Sri Chandra Prakash was required to pay Rs. 3,60,000/- to the opposite party no. 2. Against that, Rs. 1,80,000/- was paid out to her during mediation proceedings. The balance was to be paid upon successful completion of divorce proceedings.

3. During the pendency of the divorce proceedings, the said Chandra Prakash died on 27.08.2022. Thereafter, the opposite party no. 2 appears to have changed her mind such that she does not want to receive any money under the settlement but wishes to obtain compassionate appointment against the death of her estranged husband, Chandra Prakash. While the Court may not make any opinion as to the conduct offered by the opposite party no. 2, (as she continued to live separately from the present applicants and yet claims entitlement to compassionate appointment), plainly she may not resile from the settlement reached.

4. Accordingly, put up on 24.2.2023 in top ten cases.

5. On that date, the opposite party no. 2 may show cause why the present application may not be allowed in terms of the settlement dated 4.5.2022 against Rs. 1,80,000/- already paid to her.

6. Interim order, granted earlier, is extended till the next date of listing.

7. It is also left open to the opposite party no. 2 to reconsider her position and file appropriate affidavit with respect to balance amount under the settlement deed.

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“Heard learned counsel for the applicants, Sri Babu Lal Ram, learned counsel for the opposite party no.2 and learned A.G.A. for the State.

Learned counsel for the opposite party no.2 has filed an affidavit today in Court, which is taken on record.

This application under Section 482 Cr.P.C. has been filed for quashing the charge sheet dated 23.12.2020 as well as summoning order dated 1.9.2022 issued against the applicants in Case No.34 of 2021, State Vs. Chandra Prakash and others, arising out of Case Crime No.133 of 2020, under Sections 498A, 323, 504, 506 I.P.C. and 3/4 D.P. Act, Police Station Mahila Thana, District Prayagraj pending in the court of Additional Sessions Judge (J.D.), Allahabad.

It is submitted by learned counsel for the applicants that a settlement was arrived at before the Mediation Centre of this Court on 4.5.2022 between the husband and wife. A sum of Rs.3,60,000/- was required to be paid by the applicants to the opposite party no.2, out of which, a sum of

Rs.1,80,000/- was paid earlier and now today a demand draft of Rs.1,80,000/- has been handed over to the learned counsel for the opposite party no.2 by the learned counsel for the applicants.

He submits that during pendency of the criminal proceedings, the husband has died and now the family members of the husband of opposite party no.2 are facing the criminal proceedings.

Learned counsel for the opposite party no.2 submits that even though the husband has died, the opposite party will honour the settlement and has received the remaining amount of Rs.1,80,000/- by demand draft today. He submits that earlier also the husband has paid a sum of Rs.1,80,000/-. Therefore, the complete amount as per the settlement dated 4.5.2022 before the Mediation Centre of this Court has been received by the opposite party no.2. He further submits that now the opposite party no.2 has no objection in case the criminal proceedings are put to end and the present criminal proceedings were quashed. He has also filed an affidavit to this effect before this Court today.

Learned counsel for the applicants submitted that the compromise has already been entered between the parties on 4.5.2022 before Allahabad High Court Mediation and Conciliation Centre, therefore, the present case be finally decided.

Learned counsel for opposite party no.2 has not disputed the facts as stated by learned counsel for the applicants. He further contended that opposite party no.2 does not want to proceed with the criminal case against the applicants and the same may be quashed.

Learned AGA does not dispute the fact that parties have entered into settlement. It is further submitted that he would have no objection in case criminal proceedings are put to an end. He further submits that in view of settlement there is virtually no chance of any conviction being recorded in the criminal proceedings.

Having examined the matter in its totality, this Court is of the view that the criminal proceedings in the present case had essentially been an outcome of a matrimonial dispute; and there are no such over bearing circumstances for which the applicants ought to be prosecuted even after the parties has entered into a settlement. Needless to observe that with the

present stand of the parties in terms of their settlement, there is practically no chance of recording conviction, even if the case under the F.I.R. in question is put to trial. In other words, entire exercise of trial would only be an exercise in futility. On the contrary, looking to the nature of dispute and the fact that the disputants, being the close relatives, have compromised and want to proceed peacefully ahead, it would be in the interest of justice that criminal proceedings in question are quashed.

It would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and to secure the ends of justice, it is appropriate that the criminal case is put to an end.

In view of the fact that the parties do not want to pursue the case any further as stated by them and the fact that matter has been mutually settled between the parties in view of the compromise arrived at, no useful purpose would be served in proceeding with the matter further.

*Thus, in view of the well settled principles of law as laid down by the Hon'ble Apex Court in **Parbatbhai Aahir Vs. State of Gujarat (2017) 9 SCC 641, Gian Singh Vs. State of Punjab (2012) 10 SCC 303 and State of M.P. Vs. Laxmi Narayan, (2019) 5 SCC 688**, the proceedings of the aforesaid case is hereby quashed.*

The present application under Section 482 Cr.P.C. is, accordingly, allowed."

13. By means of the aforesaid order dated 10.02.2023, this Court called the opposite party No.2, Smt. Rinki to show cause why the present application may not be allowed in terms of the settlement dated 04.05.2022 against Rs. 1,80,000/- already paid to her. Further, by means of the order dated 24.02.2023 (supra), the aforesaid Application U/S 482 has been allowed by this Court considering the fact that the demand draft of Rs. 1,80,000/- has been handed over to the opposite party no. 2 and also considering the affidavit of Smt. Rinki wherein she has stated that she is not willing to contest the aforesaid case, therefore, any appropriate order may be passed on the

basis of compromise settlement entered into between the parties. In such affidavit, she had admitted that pursuant to the settlement agreement, she has received the entire amount. The aforesaid affidavit is on record along with the supplementary affidavit which goes to show that in her affidavit, Smt. Rinki has stated herself as Rinki, D/o- Surendra Kumar and has not stated as wife of Late Chandra Prakash. This Court by means of the aforesaid order dated 24.02.2023, quashed the entire criminal proceedings in view of the settled proposition of the law laid down in catena of cases referring those cases.

14. Therefore, Ms. Megha Pandey has stated when Smt. Rinki was not living with her late husband for quite long time and pursuant to the settlement agreement, she received the entire amount and filed an affidavit before this Court saying that she is satisfied with the compromise. Further, she is not living with the family members of her late husband, then she may not claim the compassionate appointment under the Dying in Harness Rules, 1974.

15. In support of her contentions, Ms. Megha Pandey has placed reliance on the judgement and order dated 14.03.2008 passed by the Hon'ble Apex Court in re: **Mumtaz Yunus Mulani vs. State of Maharashtra & others**; the judgement and order dated 13.09.2021 passed by the Hon'ble Apex Court in re: **The Director of Treasuries in Karnataka & Another vs. Somyashree** as well as the judgement of the Division Bench of this Court vide judgement and order dated 22.11.2016 in re: **Special Appeal No. 758 of 2015 (Mudita vs. State of U.P. and another)** and has submitted that the main consideration to provide the compassionate appointment would be the 'factum of dependency' of the family of the deceased employee, not the relation and in the present case, the entire family is dependent upon the petitioner Satya Prakash, who is the real younger brother of the

deceased employee, is unmarried and unemployed and the entire family of his elder brother would be benefited, if he is given any appropriate appointment under Dying in Harness Rules, 1974.

16. The relevant para nos. 7, 8 and 8.1 of the judgement in re: **The Director of Treasuries in Karnataka (supra)** are being reproduced herein under:

“ 7. While considering the submissions made on behalf of the rival parties a recent decision of this Court in the case of N.C. Santhosh (Supra) on the appointment on compassionate ground is required to be referred to. After considering catena of decisions of this Court on appointment on compassionate grounds it is observed and held that appointment to any public post in the service of the State has to be made on the basis of principles in accordance with Articles 14 and 16 of the Constitution of India and the compassionate appointment is an exception to the general rule. It is further observed that the dependent of the deceased Government employee are made eligible by virtue of the policy on compassionate appointment and they must fulfill the norms laid down by the State's policy. It is further observed and held that the norms prevailing on the date of the consideration of the application should be the basis for consideration of claim of compassionate appointment. A dependent of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. It is further observed he/she is, however, entitled to seek consideration in accordance with the norms as applicable on the day of death of the Government employee. The law laid down by this Court in the aforesaid decision on grant of appointment on compassionate ground can be summarized as under:

(i) that the compassionate appointment is an exception to the general rule;

(ii) that no aspirant has a right to compassionate appointment;

(iii) the appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India;

(iv) appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's policy and/or satisfaction of the eligibility criteria as per the policy;

(v) the norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment.

8. Applying the law laid down by this Court in the aforesaid decision to the facts of the case on hand, we are of the opinion that as such the High Court has gone beyond Rule 2 and Rule 3 of the Rules, 1996 by directing the appellants to consider the application of the respondent herein for appointment on compassionate ground as 'divorced daughter'. Rule 2 and Rule 3 of the Rules, 1996 read as under:

"2. Definitions: (1) In these rules, unless the context otherwise requires:

(a) "Dependent of a deceased Government servant" means-

(i) in the case of deceased male Government servant, his widow, son, (unmarried daughter and widowed daughter) who were dependent upon him; and were living with him; and

(ii) in the case of a deceased female Government servant, her widower, son, (unmarried daughter and widowed daughter) who were dependent upon her and were living with her;

(iii) 'family' in relation to a deceased Government servant means his or her spouse and their son, (unmarried daughter and widowed daughter) who were living with him.

(2) Words and expressions used but not defined shall have the same meaning assigned to them in the Karnataka Civil Services (General Recruitment) Rules, 1977."

6. The eligibility on the death of a female employee is in terms of Rule 3(2)(ii) of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996, which reads as follows:

Rule 3(2)(ii): '(ii) in the case of the deceased female Government servant;

(a) a son;

(b) an unmarried daughter, if the son is not eligible or for any valid reason he is not willing to accept the appointment;

(c) the widower, if the son and daughter are not eligible or for any valid reason they are not willing to accept the appointment.

(d) a widowed daughter, if the widower, son and unmarried daughter are not eligible or for any valid reason they are not willing to accept the appointment.

3. xxx 4 xxx” 8.1 From the aforesaid rules it can be seen that only ‘unmarried daughter’ and ‘widowed daughter’ who were dependent upon the deceased female Government servant at the time of her death and living with her can be said to be ‘dependent’ of a deceased Government servant and that ‘an unmarried daughter’ and ‘widowed daughter’ only can be said to be eligible for appointment on compassionate ground in the case of death of the female Government servant. Rule 2 and Rule 3 reproduced hereinabove do not include ‘divorced daughter’ as eligible for appointment on compassionate ground and even as ‘dependent’. As observed hereinabove and even as held by this Court in the case of N.C. Santhosh (Supra), the norms prevailing on the date of consideration of the application should be the basis of consideration of claim for compassionate appointment. The word ‘divorced daughter’ has been added subsequently by Amendment, 2021. Therefore, at the relevant time when the deceased employee died and when the original writ petitioner – respondent herein made an application for appointment on compassionate ground the ‘divorced daughter’ were not eligible for appointment on compassionate ground and the ‘divorced daughter’ was not within the definition of ‘dependent.’ 8.2 Apart from the above one additional aspect needs to be noticed, which the High Court has failed to consider. It is to be noted that the deceased employee died on 25.03.2012. The respondent herein – original writ petitioner at that time was a married daughter. Her marriage was subsisting on the date of the death of the deceased i.e. on 25.03.2012. Immediately on the death of the deceased employee, the respondent initiated the divorced proceedings under Section 13B of the Hindu Marriage Act, 1955 on 12.09.2012 for decree of divorce by mutual consent. By Judgment dated 20.03.2013, the Learned Principal Civil Judge, Mandya granted the decree of divorce by mutual consent. That immediately on the very next day i.e. on 21.03.2013, the respondent herein on the basis of the decree of divorce by mutual consent applied for appointment on compassionate ground. The aforesaid chronology of dates and events would suggest that only for the purpose of getting appointment on compassionate ground the decree of divorce by mutual consent has been obtained. Otherwise, as a married daughter she was not entitled to the appointment on compassionate ground. Therefore, looking to the aforesaid facts and circumstances of the case, otherwise also the High Court ought not to have directed the appellants to consider the application of the respondent herein for appointment on compassionate ground as ‘divorced daughter’. This is one additional ground to reject the application of the respondent for appointment on compassionate ground. 8.3 Even otherwise, it is required to be noted that at the time when the deceased employee died on 25.03.2012 the marriage between the respondent and her husband was subsisting. Therefore, at the time when the deceased employee died she was a married daughter and

therefore, also cannot be said to be 'dependent' as defined under Rule 2 of the Rules 1996. Therefore, even if it is assumed that the 'divorced daughter' may fall in the same class of 'unmarried daughter' and 'widowed daughter' in that case also the date on which the deceased employee died she – respondent herein was not the 'divorced daughter' as she obtained the divorce by mutual consent subsequent to the death of the deceased employee. Therefore, also the respondent shall not be eligible for the appointment on compassionate ground on the death of her mother and deceased employee."

17. Ms. Megha Pandey has stated that in view of the definition of the dependent of the deceased government servant, it is the petitioner Satya Prakash, not Smt. Rinki (supra) who has been living separately for quite long time and would not be able to look after the family members of the deceased employee, therefore, instead of Smt. Rinki (supra), the petitioner Satya Prakash may be given any suitable appointment as per his qualification under Dying in Harness Rules, 1974.

18. Shri Pawan Kumar Nigam has, however, tried to justify the claim of the petitioner Smt. Rinki by submitting that she is the wife of the deceased employee and decree of divorce could not be granted to the parties, therefore, for all practical and legal purposes, she would be treated as wife of the late employee and she may be given an appointment under Dying in Harness Rules, 1974.

19. On being confronted Shri Nigam on the point that since Smt. Rinki (supra) has been living separately from her husband; she lodged the FIR against him and his entire family; the issue went in litigation before this Court; the issue referred to the Mediation Centre; pursuant to the interim settlement after receiving the amount of Rs. 1,80,000/-, she filed the mutual divorce petition before the Family Court concerned; in a petition filed against the charge-sheet, she filed an affidavit saying that she does not wish to contest that case as she has received the entire amount in terms of the settlement agreement; in her affidavit, she has not stated herself as a wife of the late employee,

rather has indicated her father's name, then as to how she would be able to look after the family members of the late employee, who were dependent upon the late employee, he could not defend the aforesaid facts, rather he has admitted all the aforesaid facts and circumstances.

20. Therefore, the aforesaid submissions of Shri Pawan Kumar Nigam may be treated as his submissions in the petition of Smt. Rinki (supra) and the submissions of Ms. Megha Pandey may be considered as her submissions on behalf of the petitioner Satya Prakash who is opposite party no. 4 in the writ petition of Smt. Rinki (supra).

21. Shri R.P.S. Chauhan learned Additional C.S.C. has fairly stated that the authority concerned has given undertaking that he will pass appropriate orders in compliance of the order being passed by this Court in the aforesaid writ petitions as the letter to this effect dated 03.10.2023 has already been issued to Smt. Rinki (supra).

22. Having heard learned counsel for the parties and having perused the material available on the record as well as the decisions of the Hon'ble Apex Court in re: **Mumtaz Yunus Mulani (supra)**, **The Director of Treasuries in Karnataka (supra)** and the judgement of the Division Bench of this Court in re: **Mudita (supra)**, I am of the considered opinion that the Dying in Harness Rules, 1974 is a beneficial legislation and any suitable appointment on the compassionate ground under the said Rules is provided to a person who would be able to look after the entire family of the deceased employee as the deceased employee was the only bread earner of the family. The purpose of providing compassionate appointment to any suitable person under Dying in Harness Rules, 1974 is that the person would look after the entire family who was dependent upon the late employee and the specific undertaking to that effect would be taken from such employee to the effect that he will look after the entire

family of the late employee in a same manner the late employee was looking after them.

23. In view of the aforesaid facts and circumstances, it is clear that the relation of Smt. Rinki was not cordial with her husband Late Chandra Prakash (since deceased) from the very beginning and she lodged the FIR against him and his entire family having lived separately and pursuant to the orders being passed by this Court, she participated in the mediation proceedings and pursuant to settlement agreement entered into between the parties, she received a sum of Rs. 3,60,000/- as agreed by the parties and, thereafter filed an affidavit before this court saying that she does not want to pursue the criminal proceedings against the family members of her husband and in such affidavit, even she has not indicated herself as wife of the late employee, rather has stated the name of her father giving the address of her father as place of her living, therefore, she may not be provided a suitable appointment under Dying in Harness Rules, 1974 for the reason that she would not be able to look after the family members of her late husband. To the contrary, the younger brother of late employee namely, Satya Prakash (supra) is bachelor and unemployed graduate and has been living with the family of the late employee and looking after them by his meagre means, therefore, he would be the appropriate person to whom any suitable appointment may be offered under Dying in Harness Rules, 1974.

24. In view of the facts and circumstances of the issue in question, the compassionate appointment under Dying in Harness Rules, 1974 should be offered to Satya Prakash (supra) not to Smt. Rinki (supra).

25. Accordingly, the writ petition with regard to the petitioner Satya Prakash is **allowed** and the writ petition with regard to the petitioner Smt. Rinki is **dismissed**.

26. The opposite party no. 4 is directed to pass an appropriate order providing a suitable appointment under Dying in Harness Rules, 1974 to Satya Prakash (supra) with expedition, preferably, within a period of six weeks from the date of production of certified copy of this order so that he could look after the entire family of the deceased employee namely, Chandra Prakash.

27. No order as to costs.

Order Date :- 5.8.2024

Shravan

[Rajesh Singh Chauhan,J.]