

Court No. - 6

Case :- WRIT - A No. - 12206 of 2024

Petitioner :- Reena Pushkar

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Irrigation
Water Resources Govt. Lko And 2 Others

Counsel for Petitioner :- Abhishek Singh

Counsel for Respondent :- CSC

Hon'ble Alok Mathur,J.

1. Heard Sri Abhishek Singh, learned counsel for petitioner as well as learned Standing Counsel for respondents.
2. The petitioner has challenged the order dated 17.10.2024 passed by Executive Engineer, Nalkup Khand, Lucknow thereby deciding the representation of the petitioner for grant of compassionate appointment by stating that she should submit a succession certificate before her claim can be considered.
3. It has been submitted by learned counsel for petitioner that the petitioner was married to one Arun Kumar Bharti who was working on the post of Nalkup Chalak having been appointed on 09.11.2011. The petitioner and Sri Arun Kumar Bharti was married on 10.12.2012, according to Hindu Rites and Rituals. Unfortunately the husband of the petitioner , namely Arun Kumar Bharti died on 10.06.2023.
4. It has further been submitted that during lifetime of her husband there were differences with the petitioner due to which she has filed an application under Section 125 Cr.P.C. for seeking maintenance and the Principal Judge, Family Court by means of order dated 18.09.2019 had directed the husband of the petitioner to pay maintenance for an amount of Rs. 8,000/- per month. The said order was being complied with by the husband of the petitioner and the petitioner was being receiving maintenance from her husband till his death in 2023.
5. After the death of her husband, the petitioner had moved an application for compassionate appointment but no order was passed and accordingly the petitioner had approached this Court by filing a writ petition being Writ A No. 5414 of 2024 which was disposed of by means of order dated 18.07.2024 directing the Executive Engineer, Tubewell Section, Lucknow to decide the representation of the petitioner expeditiously within three months from the date of presentation of certified copy of the

order.

6. It is in compliance of the direction of this Court dated 18.07.2024 that the impugned order has been passed. In the impugned order, respondent No. 3 has dealt in detail with regard to the entire set of facts and also the fact that there was a family dispute between petitioner and her late husband and also that the court of competent jurisdiction had directed maintenance in favour of the petitioner under Section 125 Cr.P.C.. It has further been stated that it is the father of the deceased, namely, Phool Chand who had informed about the death of government servant i.e. Arun Kumar Bharti and he has prayed that service dues and other admissible amounts be paid to his father, mother and his brother. On account of the fact that in the service book the name of the father, mother and brother were recorded as the nominees. On the other hand the petitioner had moved an application for compassionate appointment.

7. It is in these facts that by means of the impugned order, the respondent No. 3 has directed the petitioner to obtain a succession certificate. Learned counsel for petitioner has submitted that firstly there is no dispute with regard to fact that the petitioner was the legally wedded wife of late government servant, namely, Arun Kumar Bharti. He has further submitted that the petitioner and late government servant were married on 10.12.2012 and also that during lifetime of her husband she had moved an application under Section 125 Cr.P.C. claiming maintenance which application was allowed and Late Sri Arun Kr. Bharti was paying maintenance till his death.

8. Accordingly, it is submitted that there is no dispute that the petitioner is the legal wedded wife of late Arun Kr. Bharti. He further submits that merely because the father and brother of the late government servant are also seeking certain benefits from the respondents cannot be a ground for directing the petitioner to obtain a succession certificate. He submits that a succession certificate could have ordered only when there was any sort of a dispute whether the petitioner is the legally wedded wife of the late government servant. He further submits that suit for declaration of succession can merely declare a person to be a legal heir and cannot pass any orders entitling their claim for compassionate appointment which power has to be exercised by the competent authority itself in light of the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974.

9. Learned Standing Counsel on the other hand has opposed the writ petition but does not dispute the aforesaid facts. He has further fairly submitted that from the bare reading of the

impugned order, it cannot be disputed that the petitioner is the legally wedded wife of the deceased government servant or there is any other claimant for claiming herself to be the wife of the deceased government servant.

10. Considering the rival contentions, it is noticed that the petitioner is the legally wedded wife of late Sri Arun Kr. Bharti, the late government servant. The application of the petitioner was not considered by the competent authority for which purposes she has approached this Court by filing a writ petition where this Court has directed the respondent No. 3 to consider and decide the representation of the petitioner expeditiously. While deciding the said representation, the competent authority has considered all the relevant facts including the fact that there was a family dispute between the petitioner and the deceased government servant due to which orders for maintenance was passed and which was also complied with by the deceased government servant.

11. It is not the case of any party or the Government that the petitioner is not the legally wedded wife of the deceased government servant or is in any manner not entitled for appointment under the Rules of 1974. Once there is no dispute that the petitioner is legally wedded wife of the deceased government servant then in exercise of powers vested under Rule 1974, respondent No. 3 should have considered the claim of the petitioner for compassionate appointment. There was no circumstance or any other material available on record due to which he could have directed the petitioner to approach the competent court for seeking a succession certificate. Such an exercise would be necessary and relevant only where there is a doubt with regard to the legal heir or there is a dispute amongst the family as to whether the claimant is the legal heir of the deceased government servant or not.

12. In the present case, no such dispute exists nor is it mentioned in the impugned order and accordingly the government should have considered claim of the petitioner treating her to be the legally wedded wife of the deceased government servant. In light of the above, this Court finds that the impugned order is illegal and arbitrary and the petitioner cannot be forced to litigate before the civil court seeking a succession certificate where there is no dispute with regard to the status of the petitioner.

13. In light of the above, the writ petition is **allowed**. the impugned order dated 17.10.2024 is quashed. The respondents are directed to consider the case of the petitioner for compassionate appointment treating her to be the legally

wedded wife of Sri Arun Kumar Bharti, the deceased government servant. While passing such order, he would be under a mandate to consider any other application as per provisions of Rule 7 of Rules of 1974 and pass appropriate orders in accordance with law and communicate the decision to the petitioner.

14. Let the said exercise be conducted expeditiously, say, within a period of six weeks from the date a certified copy of this order is produced before him.

(Alok Mathur, J.)

Order Date :- 19.12.2024

Ravi/