



2026:000:106167

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 52265 of 2017

Smt. Beena

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pt. Sita Ram Vishwakarma
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(SN.83)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Pt. Sita Ram Vishwakarma, learned counsel for the petitioner and Sri Premshankar Mishra, learned Standing Counsel for the State.

2. This petition has been filed by the petitioner herein seeking a direction for compassionate appointment upon the death of her mother while she was in service.

3. The briefly stated facts of the case are that the mother of the petitioner, namely Smt. Krishna Devi, was appointed as peon in the office of respondent no.5. While in service, she has died on 16.10.2016. Thereupon, the petitioner has moved an application for compassionate appointment, which was rejected by order dated 19.12.2016, wherein it has been observed that there is no rule or Government order is available to grant the compassionate appointment to a married daughter. Thereupon, the instant writ petition has been filed by the petitioner herein relying upon the judgment of the Coordinate Bench of this Court in ***Writ-A No. 21437 of 2016 (Km. Ruby Mausoo vs. State of U.P. and 4 Ors.)***, dated 11.05.2016, wherein it has been held that the married daughters are also entitled for compassionate appointment despite the rules there being contrary.

4. Learned Standing Counsel for the State has resisted the claim of the petitioner by submitting that there is no express rule or the Government

order available which permits the married daughter to claim the compassionate appointment upon death of her parents. In **Km. Ruby Mausoo** (supra), the Coordinate Bench of this Court has observed as under:

"

.....

*It is contended on behalf of the petitioner that the view taken by the third respondent is contrary to the laid down by this Court in case of **Smt. Vimla Srivastava v. State of U.P. and another, 2016(1) ADJ 21 (DB)**. The Division Bench has considered the constitutional validity of the word "unmarried" coming under definition of the family. The Court has declared the word "unmarried" Rule 2(C)(iii) of the Rules 1974 as ultra vires and unconstitutional. Consequently, the word "unmarried" has been struck down from the definition of the 'family'.*

In view of the above, the Court has found that the married daughter is entitled for appointment of compassionate ground.

*However, learned Single Judge in the case of Smt. Uma Vs. State of U.P. and others, Writ Petition No. 10906 of 2016 dismissed the writ petition on the ground that the division Bench in **Smt. Vimla Srivastava (Supra)** has failed to consider the Full Bench judgment of this Court in **Km. Shehnaj Begum Vs. State of U.P. and others, (2013) Law Suit (All) 754***

*Against the judgment of the learned Single Judge in **Smt. Uma(Supra)** a Special Appeal No. 268 of 2016 was filed. The Division Bench in the said special appeal considered the judgment of the Full Bench in **Km. Shehnaj Begum(Supra)** also and found that the issue decided in **Smt. Vimla Srivastava(Supra)** was not raised before the Court in Km. Shehnaj Begum case, the relevant part of the order reads as under:-*

"It is true that under Rule 2 (c) of U.P. Recruitment of Dependents of Government Servants Dying-In-Harness Rules 1974, unmarried daughters, unmarried adopted daughters, widowed daughters and widowed daughters-in-law have been shown within the definition of "Family". This is accepted position that married daughter has not been defined in the definition of "Family".

*Full Bench of this Court in the case of **Shehnaj Begum (Supra)** has strictly construed the definition of "Family" provided in Rule 2(c) of 1974 Rules and has proceeded to answer the reference that has been so made by the Division Bench of this Court.*

Only issue before Full Bench was that the word "include" in the definition clause has been used by the Rules framer in the sense of "means" or same is exhaustive. In the said context answer that has been given by Full Bench is that definition of the family in Rule 2(c) of U.P. Recruitment of Dependents of Government Servants Dying-In-Harness Rules 1974 is exhaustive. It is, however, always open to the appropriate government to amend the definition of family so as to include any other relations of the deceased government servant which it thinks fit to be included for fulfilment of purpose and object of the Rules.

*Once validity of the provision as contained under Rule 2(c) of Rules 1974 has been tested on the parameter that the said provision is discriminatory on the basis of sex and is violative of Article 14 and 15 of Constitution, and subsequent to the same, a Division Bench of this Court in the case of **Vimla Srivastava (Supra)** has tested the said provision of Rule 2(c) of Rules 1974 based on gender discrimination and has held the exclusion of married daughter from the definition of family being violative of Article 14 and 15 of the Constitution of India. Specific mention has been made that in case married daughter has to be excluded then the said provision in question*

on its face value is based on gender discrimination. In view of this, once such is the factual situation and in para-27 of the judgment dated 04.12.2015, it has been held that exclusion of married daughters from the ambit of the expression "family" in Rule 2(c) of the Dying-In-Harness Rules is illegal and unconstitutional being violative of Article 14 and 15 of the Constitution and the Division Bench has struck down the word "unmarried" in Rule 2(c)(iii) of the Dying-in-Harness Rules.

*Consequently, judgment dated 04.12.2015 passed in the case of **Vimla Srivastava (Supra)**, on subsequent occasion by coordinate bench of this Court has to be followed by us based on judicial discipline, and learned Standing counsel has informed us that said judgement is holding the field till today as validity of the same has not been challenged before Apex Court and there is no interim order operating, we proceed to pass order directing therein that in case appellant-petitioner applies for consideration of her claim for grant of compassionate appointment, then same be examined and her claim should not be non-suited on the ground that she is married daughter of deceased, however at the point of time of consideration of her claim, dependency should also be looked into as to whether she was really dependant or it is a pretence to get compassionate appointment, apart from other relevant considerations for grant of compassionate appointment including the fact of status of her husband preferably within three months from the date of presentation of certified copy of the order passed by this Court."*

In view of the above, the order passed by learned Single Judge is set aside and present special appeal is allowed."

In view of the above, now the issue stand clarified and there is no conflicting judgment.

Since no factual controversy is involved in the matter, calling a response from the respondents, would not serve any purpose. Therefore, with the consent of parties the matter is taken on

Board for final disposal

For the reason stated herein above, I find that the order of the third respondent is contrary to the law laid down by this Court.

*It is a trite law that a judgment laid down by the High Court is binding on all the Courts, Tribunals and authorities irrespective of the fact that they are party in the case or not. This power of the High Court is akin to the power of the Supreme Court under Article 141 Constitution of India. The reference may be to the judgment of the Supreme Court in **M/s. East India Commercial Co. Ltd. Calcutta and another v. Collector of Customs, Calcutta** AIR 1962 SC 1893.*

*In the case of **Dr. Rohit Gupta V. Principal, S.N. Medical College, Agra and others** 1995 1 UPLBEC 365 the Division Bench of this Court has considered the issue whether the law laid down by this Court is binding on the authorities or the parties who were not party in the writ petition. This Court held that it is a **settled legal position that the judgment of this Court are binding on all the authorities automatically and the law laid down by this Court must be faithfully complied with. The authorities cannot take stand that they comply the judgment of the Court only when they receive the instructions from State Government.***

The Court had issued a warning that in future this Court will not tolerate such type of stand taken by the authorities. The relevant part of the judgment reads as under:-

(5)"..... The judgments of this court are binding on all authorities automatically and it is not that they become binding only when approved by the State Govt. It is surprising that the Principal of a Medical College has taken a wholly illegal and untenable stand in annexure-7 to the writ petition. We were inclined to issue contempt notice but we refrained ourselves from doing so as we feel that he has issued the letter which is annexure-7 in ignorance of the legal position but we will grant

not further indulgence to him in future. The Principal of S. N. Medical College, Agra and all other authorities in the State must know that orders of this court are binding on them automatically and must be faithfully and punctually complied with, and such authorities cannot take a stand that they will comply with the judgment of this court only when they receive some communication from the State Govt. In future this court will not tolerate this kind of attitude from any authority and all authorities are cautioned against taking up such attitude in respect of the orders or judgments of this Court." (Emphasis supplied)

Accordingly, I find that the impugned order dated 4.10.2015 passed by the third respondent needs to be set aside.

*Having regard to the facts and circumstances of the case and the law laid down in the aforesaid decision, impugned order dated 4.10.2015 passed by third respondent is set aside. The matter is remitted to third respondent to consider the matter afresh in the light of law laid down by this Court in **Smt. Vimla Srivastava(Supra)**. The said exercise shall be undertaken by the third respondent within two months from the date of communication of this order. The petitioner shall submit a certified copy of this order along with a copy of the order in **Smt. Vimla Srivastava(Supra)** before third respondent within 15 days from the date of receipt of a certified copy of this order.*

The writ petition is allowed. No order as to costs. "

5. Since, **Smt. Vimla Srivastava vs. State of U.P. and Another : 2016 (1) ADJ 21 (DB)** has been relied upon by the Coordinate Bench of this Court, wherein it has been categorically held any rule which permits only unmarried daughters to claim compassionate appointment, was held to be unconstitutional, the same being discriminatory in nature. Relying upon the same and by further relying upon the judgments of **Dr. Rohit Gupta vs. Principal, S.N. Medical College, Agra and Others : 1995 1 UPLBEC 365**, wherein the directions have been issued that any legal position which

is settled by the judgment of this Court is binding on all Authorities in the State. In view of the aforesaid settled position of law as has been noted hereinabove in the judgment of Coordinate Bench of this Court, the married daughters are also entitled to claim compassionate appointment.

6. Accordingly, the instant petition is ***allowed*** and the order dated 19.12.2016, whereby the claim of the petitioner was rejected only on the ground that she is a married daughter is hereby ***quashed***.

7. The respondents are directed to consider the case of the petitioner afresh in accordance with law ignoring the provision, if any, which debars the married daughters to claim compassionate appointment. The necessary decision in this regard shall be taken within three months from today after giving due opportunity of hearing and supplying the relevant documents to the petitioner, if any, required.

(Anish Kumar Gupta,J.)

May 7, 2026
Shubham Arya