

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7304 of 2017

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Kiran Devi D/o Late Sihendro Lal & W/o Anjani Kant R/o mohalla - Satsang
Nagar, Ward No. 13, P.O. & P.S. Sherghati, District Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department,
Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Gaya.
3. The Superintending Engineer, Water Ways Circle, Gaya.
4. The Executive Engineer, Water Ways Division, Gaya.
5. The Executive Engineer, Irrigation Division, Gaya.
6. The District Compassionate Committee, Gaya through its Chairman, Collector of
Gaya.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. A.N.Lall, Adv.

For the Respondent/s : Mr. Rewti Kant Raman, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 14-12-2017

Heard Mr. A.N.Lall, learned counsel for the petitioner and
Mr. Rewti Kant Raman, learned AC to SC-11, for the State.

The petitioner is aggrieved by the order bearing Memo No.
212 dated 12.8.2016, whereby the Superintending Engineer has
returned the application of the petitioner for appointment on
compassionate ground, inter alia, on grounds that being a married
daughter she is not entitled to the benefit. The petitioner is also
aggrieved by the order bearing letter no. 106 dated 7.2.2017 of the
Executive Engineer, impugned at Annexure 12, whereby the claim has
been rejected, inter alia, on grounds that her case does not come



within the scope of the policy decision bearing letter no. 16973 dated 10.12.2014 and letter no. 1866 dated 4.2.2015, which does not entitle the petitioner to the relief.

Mr. Lall, learned counsel appearing on behalf of the petitioner, has relied upon the very same circulars, copies of which are placed at Annexures 3 and 4 respectively, to submit that a married daughter has been brought within the category of dependents and thus, the rejection is mechanical and without notice to the stipulations present in the decision of the General Administration Department dated 10.12.2014 at Annexure 4, which was reiterated vide letter dated 27.5.2015 at Annexure 3.

A counter affidavit is on record and Mr. Raman, learned counsel for the State, in reference thereto has submitted that since admittedly there are no dependent left in the family of the deceased employee except the petitioner herself but since she is already married and not required to take care of any dependent, she does not come within the scope of the revised guidelines on the issue. It is also argued that the petitioner also does not possess the basic qualification for appointment.

I have heard learned counsel for the parties and have perused the records. It is not in dispute that married daughters were brought within the category of dependents vide decision of the General



Administration Department bearing circular No. 16973 dated 10.12.2014 at Annexure 4 and reiterated vide letter dated 27.5.2015 at Annexure 3. Although the married daughters were brought within the category of dependents but the object was made very clear and that is in a situation where she was required to look after the dependents of the deceased i.e. the widowed mother and widower father who were not in a position to look after themselves. Paragraph 2 of the circular dated 10.12.2014 does discuss the object and reason for bringing the married daughter within the category of dependents and the object is loud and clear which is to enable the family which only consists of daughter(s) only to look after the family of the deceased even after her marriage. I deem it proper in this regard to reproduce paragraph 2 of the circular which is self eloquent:

“2. विचार के कम मे अनुकम्पा के आधार पर नियुक्ति से संबंधित ऐसे मामले भी दृष्टिगत हुए है जहाँ मृत सरकारी सेवक के परिवार में विधवा पत्नी अथवा विधुर पति के अतिरिक्त कोई नहीं होते हैं तथा संतान के रूप में मात्र पुत्री होने के कारण उसकी शादी हो चुकी होती है। ऐसी परिस्थिति में मृत सरकारी सेवक के आश्रित की देखभाल करने की जिम्मेदारी शादीशुदा पुत्री पर आ जाती है, परन्तु शादीशुदा पुत्री के नियोजन में पुत्री के नियोजन में नहीं रहने के कारण मृत सरकारी सेवक के आश्रित के सामने विषम आर्थिक स्थिति उत्पन्न हो जाती है तथा उसकी देखभाल करने वाला कोई नहीं होता है क्योंकि शादीशुदा पुत्रों को अनुकम्पा नियुक्ति हेतु निर्गत परिपत्रों के तहत आश्रितों की श्रेणी में नहीं रखा गया है जबकि अनुकम्पा नियुक्ति की नीति का मूल उद्देश्य ही सरकारी सेवक



सेवाकाल में हुई असामयिक मृत्यु के कारण उसके आश्रित/परिवार के समक्ष उत्पन्न भरण-पोषण की समस्या का निराकरण करना तथा तत्समय उत्पन्न आर्थिक तंगी से बचाना है। अतएव शादीशुदा पुत्री को भी सेवाकाल में मृत सरकारी सेवक का आश्रित माने जाने का विषय सरकार के विचाराधीन था। इस संबंध में विधिक परामर्श भी प्राप्त किया गया जिसमें उपरोक्त वर्णित परिस्थिति में मृत सरकारी सेवक की विवाहित पुत्री को भी आश्रितों की श्रेणी में रखना अपेक्षित बताया गया है।”

It is not in dispute that the petitioner is the only daughter of the deceased Government servant. It is also not in dispute that her mother has also deceased in 2011 after the death of her father in 2010. It is thus not a case where the petitioner is required to look after any of the surviving dependent(s) except for herself, but then this is not the object for which definition of a ‘dependent’ was enlarged rather enlargement was with a definite purpose which is to look after the dependants in the family of the deceased Government servant. It is not a case where the petitioner was living separate from her husband nor it is a case of divorcee, which may require a different consideration because in such cases the daughters do have to return to their father’s/ mother’s care hold.

Since such is not the case in hand, in the circumstances discussed, and where the petitioner stands happily married in her matrimonial home, the decision taken by the respondents to disentitle



her to the appointment, does not suffer any infirmity requiring interference.

The writ petition is dismissed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

