

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1018 of 2018

In

Civil Writ Jurisdiction Case No.15871 of 2010

Uma Devi @ Uma Kumari Daughter of Late Ram Swaroop Singh, Wife of Sri Mahesh Prasad resident of village and P.O. Dhanout, P.S. Danapur, District - Patna.

... .. Appellant/s

Versus

1. The State Of Bihar through the Secretary, Animal Husbandry Department, Government of Bihar, Patna.
2. The Director, Animal Husbandry and Production Institution, Government of Bihar, Patna.
3. The District Magistrate-cum-Chairman, District Compassionate Appointment Committee, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjeev Kumar, Advocate
For the Respondent/s : Mr.Md. Khurshid Alam- AAG12

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-01-2021

The sole issue arising for consideration in the present appeal is as to whether the appellant, being a married daughter of a deceased employee has a right for consideration for appointment on compassionate basis or not.

The learned Single Judge, in a short, but self speaking order, dismissed the writ petition on the ground that the Notification dated 10th December, 2014 would not cover the appellant's case.



Assailing the findings returned by the learned Single Judge, learned counsel for the appellant seeks reliance upon a decision of the Hon'ble Apex Court in **Vijaya Ukarda Athor (Athawale) Versus State of Maharashtra and Ors., (2015) 3 SCC 399.**

Undisputedly, appellant's father, who was working as a Class IV employee, died in harness on 19th July, 2003. It is only on 13th March, 2007 that the appellant applied for appointment on compassionate ground. At the time of death, married daughters dependent upon the deceased were not entitled for consideration for appointment on compassionate basis. It is only on 10.12.2014 that the Government came out with a policy conferring such right also upon the married daughters.

We do not find any infirmity with the reasoning adopted or findings returned by the learned Single Judge vide order dated 20.12.2017 in CWJC No.15871 of 2010 titled as Uma Devi @ Uma Kumari Versus The State of Bihar & Ors..

It is a settled law that right for consideration for appointment on compassionate basis is more to tide over financial crisis which the dependents may suffer on account of death of an employee. At the time of submission of the



application, the appellant was married. Also there is inordinate delay in applying for compassionate appointment. We do not find the policy framed by the Government to be retrospective in effect. The language is clear and unambiguous.

Reliance upon a decision rendered in **Vijaya Ukarda Athor** (supra) is absolutely misconceived inasmuch as, as is evident from para 13 of the report which is reproduced herein:-

“13. In our considered view, the questions viz.:

(i) the effect of Government Resolution, General Administration Department, No. Comp. 1093/2335/M.No. 90/93/Eight dated 26-10-1994 and effect of Clause (3)(a);

(ii) the plea that the appellant submitted applications on 29-12-1997 and 19-3-1998, that the same were not considered by the authorities for quite some time;

(iii) at the time when the applications for compassionate appointment was considered in 2012 whether the third respondent was eligible to be considered;

(iv) the effect of subsequent policy decision dated 26-2-2013 taken by the State Government as per which the married daughter is also eligible to get compassionate appointment; and

(v) such other relevant questions which are to be examined.

In our considered view, instead of this Court examining the above questions, the matter is to be remitted back to the High Court for considering the above questions in the light of the facts and circumstances of the case.”



the Apex Court did not deal with the issue of the policy having a retrospective effect.

Hence, for all the aforesaid reasons, the present appeal stands dismissed.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

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Uploading Date	01.02.2021
Transmission Date	

