



2024:DHC:9952-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 23.12.2024

+ W.P.(C) 17808/2024

POONAM SINGH

.....Petitioner

Through: Mr. P. Sureshan, Adv.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Shekhar Kumar, Mr. Shriram Tiwary, Mr. Prafulla, Adv. for R-1 to 4 with AC/CISF Raj Kumar, SI Prahlad Devenda, SI Amit Kumar and HC Vinay Kumar

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J (ORAL)

CM APPL. 75823/2024 and CM APPL. 75824/2024 (exemptions)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 17808/2024 and CM APPL. 75822/2024

3. This petition has been filed by the petitioner, challenging the Orders dated 25.09.2024 and 04.11.2024 passed by respondent no.4, rejecting the application of the petitioner seeking Compassionate Appointment on the ground that she, at the time of death of her father, who was a government servant, was married and was legally separated



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from her husband only post the death of the government servant. It has been held by the respondents that, therefore, the petitioner does not qualify for appointment on compassionate grounds.

4. The learned counsel for the petitioner submits that the petitioner was married on 08.05.2021 and ever since her marriage, there were struggles and disputes in the married life of the petitioner, which finally led the petitioner to separate from her husband and live separately from him since 20.12.2021. After the separation, the petitioner was wholly dependent on her father.

5. He further submits that the petitioner along with her husband filed the first motion for divorce under Section 13B of the Hindu Marriage Act, 1955 on 04.03.2023, that is, prior to the death of the government servant, who unfortunately died on 25.08.2023. He submits that though eventually the divorce was granted on 16.09.2023, that is, post the death of the government servant, in terms of the Office Memorandum dated 02.08.2022, the petitioner would be entitled for being considered as a 'dependent family member', being the daughter of the government servant. He submits that only because she was married on the date of the death of the government servant, as the final decree of divorce had not been passed, it cannot be a bar from such consideration.

6. He also places reliance on the '*Frequently Asked Questions (FAQs) on Compassionate Appointment*' issued by the Department of Personnel and Training, which in paragraph 12 thereof states as under:-



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“12.	Whether a ‘married daughter’ can be considered for compassionate appointment?	<u>Yes</u> , but subject to conditions: i. That she was wholly dependent on the Government servant at the time of his/her death in harness or retirement on medical grounds. ii. She must support other dependents members of the family.”
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7. Issue notice.

8. Notice is accepted by Mr. Shekhar Kumar, learned counsel on behalf of the respondents.

9. With the consent of the learned counsels for the parties, the petition has been considered for final disposal at this stage itself.

10. He submits that the petitioner was married on the date of the death of the government servant, therefore, she would not be entitled to be considered as a ‘dependent family member’ and her application seeking Compassionate Appointment has been rightly rejected *vide* the Impugned Orders. In support, he places reliance on the Judgment of the Supreme Court in **Director of Treasuries in Karnataka & Anr. vs. V. Somyashree**, (2021) 12 SCC 20.

11. He submits that even otherwise, the decree of divorce reflects that the petitioner has been granted alimony of Rs.16 lakhs. He submits that, therefore, the petitioner was not dependant on the government servant for her maintenance.

12. We have considered the submissions made by the learned counsels for the parties.



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13. Clause 2(B) of the Office Memorandum dated 02.08.2022, which is the Master Circular for the Scheme for Compassionate Appointment under the Central Government, reads as under:-

“SCHEME FOR COMPASSIONATE APPOINTMENT

2. TO WHOM APPLICABLE

(B) of a member of the Armed Forces who –

- (a) dies during service; or*
- (b) is killed in action; or*
- (c) is medically boarded out and is unfit for civil employment.*

Note I **“Dependent Family Member”** means:

- (a) spouse; or*
- (b) son(including adopted son); or*
- (c) daughter (including adopted daughter); or*
- (d) brother or sister in the case of unmarried Government servant or*
- (e) member of the Armed Forces referred to in (A) or (B) of this para,*

-- who was wholly dependent on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may.”

14. The said clause, therefore, does not disqualify a married daughter from being considered as a ‘*dependent family member*’ of the government servant who was a member of the Armed Forces. The same has been reiterated in the answer to the FAQs which have already been reproduced by us.

15. In **V. Somyashree** (supra), the Supreme Court was considering



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Rule 2 of the Karnataka Civil Services (Appointment on Compassionate Ground) Rules, 1996, which read as under:-

“12. Rule 2 and Rule 3 of the 1996 Rules read as under:

“2. Definitions. (1) In these Rules, unless the context otherwise requires

(a) "Dependant 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.”

16. There is, therefore, a stark distinction between the eligibility criteria of the Karnataka Civil Services (Appointment on Compassionate Ground) Rules that were considered by the Supreme Court and the scheme applicable to the case of the petitioner inasmuch as the scheme does not exclude a married daughter from being considered as a dependent family member of the government servant.

17. The Impugned Orders inasmuch as they exclude the petitioner



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from consideration for compassionate appointment only on the ground that she was married on the date of death of the government servant, therefore, is liable to be set aside.

18. As far as the plea of the learned counsel for the respondents that the petitioner, having received alimony of Rs. 16 lakhs, cannot be said to be dependent on the government servant, is considered, as this ground is not taken in the Impugned Orders, we do not wish to make any comment on the same.

19. The Impugned Orders are, accordingly, set aside. The respondents shall re-consider the application of the petitioner keeping in view the Scheme and the contents of the present petition, and pass a fresh order on said consideration within a period of eight weeks from today.

20. In case the order passed by the respondents is against the interest of the petitioner, it shall be open to the petitioner to challenge the same in accordance with law.

21. The petition, along with the pending application, is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 23, 2024

SU/B/as

Click here to check corrigendum, if any