



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 521/2011

Sushila Devi W/o Shri Sawarlal, Laliyon Ka Mohalla Village
Saradhana District Ajmer

----Petitioner

Versus

1. State Of Rajasthan Through Its Secretary Department Of Public Works P.w.d., State Secretariat, Jaipur.
2. Executive Engineer, Highway Division, Ajmer.

----Respondents

For Petitioner(s) : Mr. Sunil Samdaria with Ms. Isha Belani
For Respondent(s) : Mr. Rohit Choudhary, Dy.G.C. with OIC Mr. Vedprakash Sharma, Ex.En. NH, District Ajmer

HON'BLE MR. JUSTICE SAMEER JAIN
Order

REPORTABLE

Reserved on **15/12/2022**

Pronounced on **19/12/2022**

1. By way of the present writ petition, the petitioner has challenged the order dated 19.03.2009, whereby the petitioner was declined compassionate appointment by Respondent No.2. Furthermore, the petitioner has sought direction(s) to the respondents for considering her application for compassionate appointment.

2. The facts of the case, as stated by the petitioner, are that the mother-in-law of the petitioner was appointed on the post of a 'Coolie' in the Respondent-Department. However, on 15.07.2007, she died while working in harness with the said department. Immediately thereafter, within a period of 8 days, an application for compassionate appointment was filed by the petitioner's



husband i.e. deceased's son, on 23.07.2007. Accordingly, respondent No.2 forwarded the said application for compassionate appointment to Superintendent Engineer, Jaipur for his due consideration. But unfortunately, the petitioner's husband-Sh. Sawar Lal also died on 14.03.2008; leaving the petitioner widowed, with a responsibility of looking after herself as well as her three minor children. Therefore, being an uneducated lady, with no alternative source of employment, the petitioner made an application for compassionate appointment on 03.03.2009 as per the Rajasthan Compassionate Appointment of Dependents of Deceased Government Rules, 1996 (hereinafter 'Rules of 1996'). However, vide letter dated 19.03.2009, respondent No.2 declined compassionate appointment to the petitioner on account of the fact that a 'daughter-in-law' did not fall within the ambit of the term 'dependent' as provided under the Rules of 1996.

3. In this background, the petitioner filed the present writ petition challenging the legality and validity of the rejection letter dated 19.03.2009 and sought directions to the respondents for duly considering her case for compassionate appointment. At this juncture, it would be prudent to note that the present matter is pending since 2011; and in spite of several early hearing requests, it was not heard. Thus, the matter was finally heard today with the consent of both the parties.

4. Learned counsel for the petitioner has argued that the impugned actions of the respondents are contrary to the spirit of granting compassionate appointments under the Rules of 1996. In this regard, learned counsel submitted that the petitioner as well as her entire family, including the minor children, were solely dependent upon the petitioner's mother-in-law for their survival.



Thus, the petitioner fell within the category of a 'dependent' as provided in the Rules of 1996. It was further argued that Rule 2(c) of the said rules does not define the term 'family'. Rather, it defines the term 'dependent'. Hence, looking at the provision holistically, the term 'dependent' would include all individuals who were financially dependent upon the deceased Government Servant for their survival. Hence, the petitioner would accordingly qualify for compassionate appointment in the said Respondent-Department.

5. Learned counsel further argued that vide order dated 19.03.2009, Respondent No.2 had failed to consider the fact that the petitioner was an uneducated widow, having the responsibility of three minor children upon her shoulders. Moreover, it was further submitted that on account of the above mentioned reasons, the petitioner was facing financial hardships. Thus, the respondents erred in declining compassionate appointment to the petitioner. In support of the said contentions, learned counsel relied upon the judgment of this Court in the case of **Smt. Pinki Vs. The State of Rajasthan & Ors.** reported in **2012 (1) WLC 431**.

6. *Per contra*, learned counsel for the respondents has submitted that the order dated 19.03.2009 is absolutely legal and is strictly in consonance with the Rules of 1996. In this regard, learned counsel submitted that as per the Rules of 1996, a 'daughter-in-law' of the deceased-Government Servant does not fall within the definition of a 'dependent' as envisaged under Rule 2(c) of the said Rules. Furthermore, while expressing sympathy towards the petitioner, learned counsel argued that the respondents are statutory authorities, who are bound to function



within the defined parameters of a statute. Hence, as there is no express inclusion of a 'daughter-in-law' within the stipulations of the said rules, the respondents cannot consider the application of the petitioner for the purpose of compassionate appointment. It was further submitted that the petitioner's application for compassionate appointment was filed after a substantial delay of one year. Therefore, considering the fact that the petitioner had filed the application for compassionate appointment after a prolonged delay, without providing any justifiable explanation warranting the same, the present petition is liable to be dismissed. Lastly, learned counsel for the respondents apprised the Court of the fact that the petitioner's husband, being an heir of the deceased- Government Servant, had been duly paid the amount accruing to him from G.P.F., General Insurance and other benefits etc. Therefore, considering the submissions made herein-above, the present petition is liable to be dismissed.

7. I have considered the arguments advanced by both the sides, scanned the record of the case and perused the judgments cited at Bar.

8. It is observed that the petitioner's mother-in-law, who was appointed in the Respondent-Department, died in harness on 15.07.2007. The deceased was survived by her son i.e. the petitioner's husband, the petitioner herself and their three minor children. Moreover, the deceased's entire family was financially dependent upon her for their survival. Accordingly, the petitioner's husband applied for compassionate appointment in the Respondent-Department. However, while his application was pending approval, he died as well. Thus, the burden to look after their three minor children fell solely upon the petitioner; who is an



uneducated lady, facing financial hardships on account of the demise of her mother-in-law as well as her husband in quick succession.

9. In this regard, it would be prudent to say that the judgment relied upon by the counsel for the petitioner in the case of **Smt. Pinki Vs. The State of Rajasthan & Ors.** reported in **2012 (1) WLC 431**, which was upheld by the Division Bench of this Court in **D.B. SAW No.1915/2011** on 05.01.2012, is squarely applicable to the facts of the present case. In the said judgment, it was held that while interpreting Rule 2(c) of the Rules of 1996, we must interpret a 'widowed daughter', who is expressly included in the mandate of the said Rule, to mean a 'widowed daughter-in-law' as well. Meaning thereby, that a 'widowed daughter-in-law' shall also be covered under Rule 2(c) of the Rules of 1996. It was further held that as per the customs of the Indian Society, a daughter-in-law is also supposed to be treated as a daughter as she is an integral member of the family who possess all the honour and responsibilities of the household.

10. Thus, it would be prudent to say that the Rules of 1996 are a beneficial piece of legislation and therefore, we must interpret them harmoniously to read a 'widowed daughter-in-law' as a part and parcel of 'widowed daughter'.

11. Therefore, considering the observations made herein-above and relying upon the judgment of this Court in **Smt. Pinki (supra)** as upheld by the Division Bench in **D.B.SAW No.1915/2011**, this Court is of the view that the prayer sought by the petitioner for compassionate appointment with all consequential benefits must be allowed.



12. Accordingly, the order dated 19.03.2019 is set aside and the writ petition is allowed.

13. The respondents are directed to consider the case of the petitioner for compassionate appointment within a period of 30 days and to grant her due benefits in accordance with law from the due date.

14. Consequently, the writ petition is allowed in above terms. All pending applications shall stand disposed of.

(SAMEER JAIN),J

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