

Court No. - 4

Case :- WRIT - A No. - 11406 of
2025

"AFR"

Petitioner :- Kumari Sonam

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Anil Kumar Prajapati, Kuldeep Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

Heard learned counsel for the parties.

By means of present petition filed under Article 226 of the Constitution, petitioner has prayed for quashing of the order dated 13.6.2025 passed by District Programme Officer, Bareilly cancelling the appointment of the petitioner as Anganbari Worker chiefly on the ground that petitioner's sister-in-law (jethani) was also working as Anganbari Assistant in the same block and the Government Order does not permit the posting of two women of the same family at same centre as Anganbari Worker and Anganbari Assistant.

Assailing the order impugned, learned counsel for the petitioner in the first instance submitted that order impugned has been without any notice and opportunity of hearing to the petitioner. Since order has adverse civil Consequences, petitioner ought to have been afforded her explanation in defence of appointment order. The legal aspect as to the bar created under the Government Order dated 21.5.2023, learned counsel for the petitioner submits that relevant Clause of the said order vide Clause 12 (iv) only this much provides that two ladies of the same family will not be appointed as Anganbari Worker and Anganbari Assistant at the same center. The relevant provisions as reproduced hereunder:

"एक आंगनबाड़ी केन्द्र पर एक ही परिवार की दो महिलाओं की नियुक्ति आंगनबाड़ी कार्यकर्त्री व सहायिका के पद पर नहीं की जायेगी।"

It is argued that petitioner's sister-in-law (jethani) is living in a separate house having separate house number and hence she also does not fall within the definition of family of the husband of the petitioner may be she belongs to the

family of her father-in-law, and therefore, within the definition of family, sister-in-law will not fall.

In support of this above submission, firstly, learned counsel for the petitioner has taken the Court the relevant document of family register which shows that petitioner's husband is living in house no. 126 whereas petitioner's sister-in-law, namely, Ramwati, W/o Prempal, brother-in-law, of the petitioner is living in separate house being no. 107.

Learned counsel for the petitioner has further taken the Court to the definition clause of family provided for government employee in the medical department for the purpose of medical assistance to dependents of the family in government department which provides for husband, wife, parents, step son, unmarried/ divorce /deserted sisters, minor, brother and step mother.

In respect of other support has been taken from the definition of family given under Order XXXII-A, Rule 6 that provides for definition of family consisting of man and his wife living with child or children being issue of heirs or of such man and such wife any child or children maintained being man and wife. Relevant provisions of CPC ,Rule 6 of CPC is reproduced hereunder:

"6. "Family"-Meaning of

For the purposes of this order, each of the following shall be treated as constituting a family, namely-

(a) (i) a man and his wife living together,

(ii) any child or children, being issue of theirs; or of such man or such wife,

(iii) any child or children being maintained by such man and wife;

(b) a man not having a wife or not living together with his wife, any child or children, being issue of his, and any child or children being maintained by him;

(c) a woman not having a husband or not living together with her husband, any child or children being issue of her,sand any child or children being maintained by here;

(d) a man or woman and his or her brother, sister, ancestor or lineal descendant living with him or her; and

(e) any combination of one or more of the groups specified in clause (a), clause (b), clause (c) or clause (d) of this rule.

Explanation: For the avoidance of doubts, it is hereby declared that the provisions of rule 6 shall be without any prejudiced tot he concept of "family" in any personal law or in any other law for the time being in force."

Learned counsel for the petitioner in support of his argument has relied upon the judgment of coordinate bench of this Court in the case of **Smt. Kusum Lata v. State of U.P. and 2 Others, Writ C No. 21935 of 2021, decided on 29.11.2021**, in which the Court dealt with definition providing under the relevant cadre order of the year 2016 providing for allotment of fair price shop. Rule framed under the The Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 were also taken into consideration. Relevant paragraph 21 and 22 of the judgment of Coordinate bench is reproduced hereunder:

"21. Pursuant to the Control Order of 2016 the State Government issued a Government Order dated 05.08.2019 in regard to the allotment of license of vacant fair price shop and the reservation applicable therein. Sub-clause (10) of Clause IV provides that the definition of family as occurring in the Control Order of 2016 will also apply in case of the allotment of license of vacant shop which is as under;

"ग्राम प्रधान के परिवार के सदस्यों के पक्ष में उचित दर की दुकान के आवंटन का प्रस्ताव नहीं किया जायेगा। परिवार की परिभाषा, जैसा कि उ० प्र आवश्यक वास्तु (वितरण के विनियमन का नियंत्रण) आदेश २०१६ में दी गई है, निम्नानुसार होगी :-

- परिवार का मुखिया,*
- पति/पत्नी विधिक रूप से अपनाये गये दत्तक संतान सहित।*
- संतान जो परिवार के मुखिया पर पूर्ण रूप से आश्रित हो।*
- अविवाहित, विधिक रूप से पृथक और विधवा बेटा, और*
- परिवार के मुखिया पर पूर्ण रूप से आश्रित माता/पिता"*

22. The definition of family occurring in the Control Order of 2016 is not para materia to the definition of family occurring in Rule 2 (c) of the Dying-in-Harness Rules, which is extracted here as under;

"2(c) "family" shall include the following relations of the deceased Government servant:

- (i) Wife or husband;*

(ii) Sons/adopted sons;

(iii) Unmarried daughters, unmarried adopted daughters, widowed daughters and widowed daughters-in-law;

(iv) Unmarried brothers, unmarried sisters and widowed mother dependent on the deceased Government servant, if the deceased Government servant was unmarried;

(v) aforementioned relations of such missing Government servant who has been declared as "dead" by the competent Court;

Provided that if a person belonging to any of the above mentioned relations of the deceased Government servant is not available or is found to be physically and mentally unfit and thus ineligible for employment in Government service, then only in such situation the word "family" shall also include the grandsons and the unmarried granddaughters of the deceased Government servant dependent on him."

After discussion, vide paragraph 36, the Court held thus:

36. More so, the Control Order of 2016 does not make any distinction between the sons and daughters of a license holder, as in case of Rule 2 (c) of the Dying-in-Harness Rules. The definition of family occurring in the Control Order of 2016 as well as the government order of 2019 embraces the word "dependant child", which also includes the dependant father and mother. Argument that married daughter had been excluded creates gender bias cannot be accepted, as the very purpose is the distribution of food grains to the card holders attached to the ration shop situated in village. Once the daughter of a licensee is married outside the village, she cannot continue to run the fair price shop and distribute ration. The sole purpose of enacting the Act of 2013 and the Control Order of 2016 is that the food reaches the last person of the society and a licensee being only an agent of the State through which the target is achieved by both the Central Government and the State Government.

Thus, learned counsel for the petitioner submits that by no stretch of imagination the sister-in-law (jethani) can be taken to be falling within the definition of family for the purposes of selection and appointment on the post of Anganbari Worker.

Learned Standing Counsel though sought to defend the order, but could not dispute that order was passed without giving notice and opportunity of hearing to the petitioner, nor could dispute that relevant clause of the Government Order only includes two women of the same family.

From the discussion made above with reference to various service rules and the definition of family given in CPC , it can easily be concluded that daughter-in-law (jethani) would not become member of the family and daughter-in-law (jethani) can be considered to be a member of family provided both brothers are living together having common kitchen and house.

In view of above, therefore, it cannot be said that both sister-in-law (jethani) and petitioner were women of the same family, and hence, order impugned is rendered unsustainable on both grounds of violation of principles of natural justice and also on merits.

Writ petition accordingly succeeds and is allowed. The order impugned dated 13.6.2025 is hereby quashed. The District Programme Officer is directed to reinstate the petitioner as Anganbari Worker to discharge her duties and shall also be paid salary month by month. As a result the order being quashed, the petitioner shall also be entitled to consequential benefits in terms of arrears of salary for the period she has been denied on account of order impugned.

Order Date :- 12.8.2025

Sanjeev