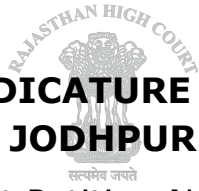




[2023:RJ-JD:23945]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Civil Writ Petition No. 2291/2022

Smt. Nirjara Singhvi

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Education Department, Rajasthan, Jaipur.
2. The Director, Secondary Education, Bikaner, Rajasthan.
3. The Joint Director (School Education), Udaipur Division, Udaipur.
4. The District Education Officer (Headquarter), Secondary Education Chittorgarh.
5. Smt. Monika Jain

----Respondents

For Petitioner(s)	:	Mr. Khet Singh
For Respondent(s)	:	Mr. Hemant Choudhary, G.C. Mr. S.S. Rajpurohit for respondent No.5

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

REPORTABLE

27/07/2023

Heard learned counsel for the parties.

The present writ petition has been filed against the order dated 20.09.2021 (Annex.16) passed by the Dy. Secretary to the Government of Rajasthan, whereby the application of the petitioner for compassionate appointment was rejected on the ground that she is not a "Dependent" as per Rajasthan Compassionate Appointment of Dependent of Deceased



Government Servant Rules, 1996 (hereinafter referred to as the 'Rules of 1996').

Briefly, the facts giving rise to the present writ petition are that the petitioner got married to one Vinit Singhvi son of Shri Ratan Lal Singhvi & Smt. Santosh Singhvi in the year 2017. Out of this wedlock, the petitioner was blessed with twin girls on 19.06.2020. Smt. Santosh Singhvi, mother-in-law of the petitioner was working as Sr. Teacher, Government Sr. Secondary School, Heerakhari, Tehsil Rashmi, District Chittorgarh. While the petitioner was in her matrimonial-home, Smt. Santosh Singhvi, mother-in-law of the petitioner was found COVID Positive following which, she was undergoing treatment in Mahatma Gandhi Hospital, Bhilwara. Unfortunately, she passed away on 01.05.2021. At the same time, the husband of the petitioner, Shri Vinit Singhvi was also found COVID Positive and was admitted to Mahatma Gandhi Hospital, Bhilwara. He also passed away in the month of May, 2021. In these circumstances, the petitioner submitted an application for compassionate appointment in the respondent-Department.

The said application was forwarded by the officers of the respondent Department. While the application was in process for considering the appointment of the petitioner on compassionate grounds, she lost her father-in-law also and now she is left with only two minor daughters to be brought up for which there are no means of maintenance and livelihood. The application preferred by the petitioner was rejected by the Government vide its order



dated 20.09.2021 (Annex.16). Hence, the present writ petition has been filed.

It is also noted that, soon after rejection of the application of the petitioner to be appointed on compassionate grounds, respondent No.5 - Mrs. Monika Jain d/o deceased Government servant Smt. Santosh Singhvi also submitted an application seeking compassionate appointment claiming herself entitled for appointment being a married daughter.

Learned counsel for the petitioner vehemently submitted that the petitioner is facing crisis situation as the sole bread earner of the family Smt. Santosh Singhvi had passed away and within a short span of time, her husband, who was doing a private job, had also left for heavenly abode. In these circumstances, the petitioner is only person to nurture her two minor daughters. The petitioner is facing destitution as there is no bread earner in the family. He further submits that while extending the definition of "Dependent" in Rule 2(c) of the Rules of 1996, a co-ordinate Bench of this Court at Jaipur has granted relief to a similarly situated person in the case of **Smt. Sushila Devi Vs. State of Rajasthan and anr. (SB Civil Writ Petition No.521/2011)** decided on 19.12.2022 and the same was affirmed by the Division Bench in the case of **State of Rajasthan and Anr. Vs. Sushila Devi (DB Civil Spl. Appeal (Writ) No.383/2023)** decided on 04.07.2023. He, therefore, prays that the writ petition may be allowed and the petitioner may be granted appointment on compassionate grounds.



Per contra, Mr. S.S. Rajpurohit, learned counsel appearing for the respondent No.5 – Smt. Monika Jain, while opposing the arguments of the learned counsel for the petitioner, submits that the respondent No.5 being the daughter of Smt. Santosh Singhvi, deceased government servant is entitled to be appointed on compassionate grounds as per the amended Notification dated 28.10.2021. He submits that as per sub-Clause (iv) of Clause (c) of Rule 2 of the Rules of 1996, the respondent No.5 being a married daughter is a “dependent” as per the definition of the dependent given in Rule 2(c) of the Rules of 1996 and therefore, the case of the respondent No.5 may be considered for appointment on compassionate grounds. He further submits that the petitioner is not entitled for appointment on compassionate grounds as daughter-in-law is not a “dependent” as per the definition of dependent in the Rules of 1996. He, therefore, prays that the writ petition may be dismissed. Learned counsel for the respondent No.5, however, is not in a position to dispute the factual submissions made by the learned counsel for the petitioner.

Shri Hemant Choudhary, learned counsel for the official respondents has though opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner being a daughter-in-law is not a dependent as per Rule 2(c) of the Rules of 1996, however, he is also not in a position to refute the factual submissions made on behalf of the petitioner and the judgment pronounced by the Division Bench of this Court in the case of Sushila (supra).



I have considered the submissions made at the bar and have gone through the relevant record of the case.

Since the factual position as mentioned in the preceding paras of this order has not been disputed by the counsel for the respondents, therefore, it is noted that the petitioner is the daughter-in-law of Smt. Santosh Singhvi, who was working on the post of Sr. Teacher in the respondent Department, and while she was serving as a Sr. Teacher, she passed away in the year 2021 and immediately thereafter her husband who was doing a private job also died. The petitioner is left with no means of livelihood for maintaining herself and to look after the well being of her two minor daughters. Since the father-in-law of the petitioner has also passed away in a quick succession adding misery to the life of the petitioner, the situation of the petitioner is miserable. It is in these circumstances, the Rules framed by the Legislature i.e. Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants (Amendment) Rules, 2021 are required to be interpreted and applied for relieving the petitioner from the situation of crisis and destitution. In the opinion of this Court, the purpose of extending the benefit of compassionate appointment to dependents of a deceased Government servant is to relieve the family from distress and destitution on account of the death of sole bread earner of the family.

In the present case, there cannot be a more distressful condition as the petitioner is the sole person who has to maintain herself and two minor daughters since all other family members





i.e the husband of petitioner, mother-in-law, and father-in-law of the petitioner, have passed away within a short interval of time.

In the present set of facts, although by virtue of Notification dated 28.10.2021 "married daughter" has been inserted into the ambit of "Dependent" as per Rule 2 (c) of Rules of 1996, however, the respondent No.5 is living with her husband after marriage in the matrimonial home, therefore, she is not in a situation of crisis. Whereas, the condition of the petitioner is not only precarious but the same is distressful.

Thus, this Court is firmly of the view that intention and purpose of the legislature will be gainfully achieved if the benefit of compassionate appointment is extended in such a situation as mentioned above to the petitioner. This Court is of the view that Almighty was quite harsh with the petitioner in comparison to respondent No. 5, who is reasonably settled after marriage in her matrimonial home. The endeavour of the lawmakers and the Court is to give relief to a person who is facing such a situation as has been faced by the petitioner in the present case. In the instant case, there is nothing on record which shows that the petitioner was not dependent on her mother-in-law, besides this, an exceptional situation has been created which requires the liberal construction of "Dependent" under Rule 2 (c) of the Rules of 1996 to include the "Daughter in law".

In case of compassionate appointment, when there are rival contentions between two or more persons, the competitive hardship is required to be seen for the grant of compassionate



appointment. By application of this test also, the same lies in favour of the petitioner.

In view of the discussion made above, this Court is of the view that the claim of the petitioner for grant of compassionate appointment is more than deserving and even stands on much better footing than the claim of the daughter (respondent No.5) in the present set of facts.

A Division Bench of this Court at Jaipur Bench in State of Rajasthan vs. Sushila Devi (supra) has recently held as under:

"22. We are of the view that the decision of this Court in the case of Smt. Pinky Vs. State of Rajasthan & Ors (supra) laid down the correct legal position with regard to interpretation of Section 2(c) of the Rules of 1996 containing definition of "dependent" so as to include not only a widowed daughter but also widowed daughter-in-law. It is however, with the caveat that in any case, the applicant seeking compassionate appointment has necessarily to be dependent on the deceased employee.

23. Learned counsel for the appellant placed reliance on the decision of Hon'ble Supreme Court in the case of Director of Trasuries in Karnataka & Anr .Vs. V.Somyashree. In fact, that was a case where at the time of death of the employee, his daughter was enjoying marital status and she was not a widow. It was after sometime, she obtained divorce and then claimed compassionate appointment seeking her inclusion as 'dependent' alongwith widowed daughter. In this factual background, the Hon'ble Supreme Court was of the view that it was not permissible to allow divorced daughter to be included in the definition of 'dependent' alongwith unmarried daughter or widowed daughter. Further, the Hon'ble Supreme Court also noticed the fact that at the time of death of deceased employee, the writ petitioner therein was married daughter and only subsequently she



obtained divorce. Therefore, the aforesaid decision does not advance the case of the appellants.

24. Another decision in the case of Smt. Sapna Vs. State of Rajasthan; D.B. Civil Writ Petition No.9686/2020 does not support the case of the appellants. That was a case where a married daughter was denied compassionate appointment as she was not included in the definition of 'dependent' under Rule 2(c) of the Rules of 1996. The decision in the case of Smt. Pinky Vs. State of Rajasthan & Ors (supra) was distinguished by the Division Bench because compassionate appointment was sought by daughter-in-law, whereas the case in hand before the Court was that of the married daughter. Therefore, apparently the decision of Smt. Sapna Vs. State of Rajasthan relied upon in the present case is clearly distinguishable.

25. In the result, we do not find any merit in the present appeal and the appeal is therefore, dismissed".

In view of the discussion made above, the writ petition merits acceptance and is hereby allowed. The decision of the respondents in rejecting the application of the petitioner for giving appointment on compassionate ground is declared illegal and the same is quashed and set aside. The respondents are directed to grant appointment to the petitioner on compassionate grounds on a suitable post within a period of four weeks from the date of receipt of certified copy of this order.

(VINIT KUMAR MATHUR),J

234-Anil/-