

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated this the ^{8th}.....day of ^{Dec}.....2010

CORAM:

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER (A)

Original Application No.168 of 2007
(U/s 19 of the Administrative Tribunals Act 1985)

Smt. Urmila Ram,
W/o late Mahendra Nath Ram,
R/o Village, Jakarauli Post,
Pradhanki Baresi,, Tehsil Mohammadabad,
District- Ghazipur. . . .Applicant

By Adv: Shri. P.Upadhyay

V E R S U S

1. Union of India, through its Secretary,
Ministry of Communications,
Department of Post, Dak Bhawan
Sansad Marg, New Delhi.
2. Chief Post Master General,
Chattisgarh Circle, Raipur -492001.
3. Superintendent of Post Office,
Bastar, Division Jagdalpur,
Chattisgarh-494001.Respondents

By Adv: S/Shri R.D.Tiwari/S.C.Mishra

ORDER

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER (A)

This is a matter of compassionate appointment. The applicant's husband died while in service on 18.7.1991. The applicant submitted an application for grant of family pension and for compassionate appointment dated 9.6.1992. The applicant submitted all the relevant

documents in the prescribed proforma on 22.3.1993. She also submitted Succession Certificate issued by District Judge, Ghazipur. The applicant filed Suit No.3/2003 in the Court of Civil Judge, Bastar, Jagdalpur, as another lady, Smt. Phoolmati also claimed to be the second wife of the deceased. The suit was decided vide orders 15.5.2004, holding that Smt. Urmila Devi, the applicant, is the legal wife of the deceased Shri Mahendra Nath Ram and the marriage with Smt. Phoolmati is illegal and void. A certified copy of the judgement was submitted to the respondents, but no action was taken. Finally O.A. No.1193/05 was filed by the applicant and vide orders dated 27.7.2006 the applicant was directed to file fresh application for compassionate appointment, which was to be considered and decided by the respondents within a period of three months. Accordingly, the applicant submitted her representation dated 16.8.2006 which was decided vide impugned orders dated 17.11.2006. Aggrieved by the rejection, the applicant filed the present O.A. seeking the following reliefs:

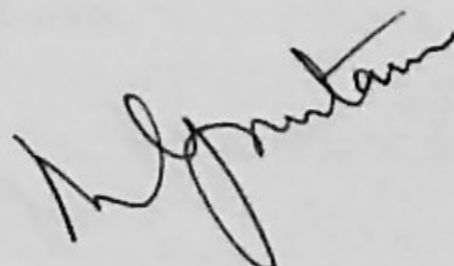
- i. *To issue a direction in the nature of certiorari for 'quashing the impugned order dated 17.11.2006 passed by respondent No.2*
- ii. *To issue any other order or direction as this Hon'ble may deem deem fit and proper in the circumstances of the case.*
- iii. *To award costs throughout to the applicant.*

2. In the counter affidavit filed by the respondents it has been stated that, two women claimed to be the wives of the deceased were claiming for compassionate appointment. Both had submitted

Succession Certificates in support of their claims. The matter was decided by order dated 15.5.2004. Smt. Urmila Deavi, the applicant had also filed O.A.1193/2005 and the same was decided on 27.7.2006 and the applicant was directed to file a fresh representation. As such, she submitted her application on 16.8.2006.

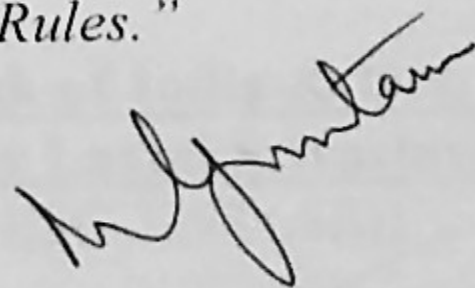
3. As stated in the impugned orders, the case of the applicant was considered by the Circle Relaxation Committee which found that, after the death of the deceased on 18.7.1991, the applicant had been subsisting on the retrial benefits of Rs.18,479/- and family pension of Rs.618/- per month and as per the income certificate issued by the Tahsildar, Ghazipur, her monthly income was about Rs.1500/- from doing labour.

4. The Committee did not find the case of the applicant fit to be recommended and the applicant could not be appointed within a year of the death of her husband, and that the purpose of providing the immediate assistance was no longer there. Moreover, the applicant do not possess any educational qualifications, whereas according to the Recruitment Rules for group 'D' posts the required educational qualification is of "**middle school pass**". Accordingly, as per rules, the case of the applicant has been rejected.



5. The case of the applicant, however, is that immediately after the death of her husband, she has made a request for compassionate appointment and remained in correspondence with the Postal Department, but due to complication arising out of the claims made by the alleged second wife of the deceased, her case could not be considered. In the application the applicant also stated that the applicant got monthly income of Rs. 1500/- including Rs.618/- which she got as family pension. She has no further source of income. Therefore, according to the applicant, her's was a fit case of appointment on compassionate grounds. The applicant has also stated that, as far as her educational qualifications are concerned, her case has to be seen according to the orders which existed in the year 1991-92 i.e. the time of the death of her husband, whereas the impugned orders have quoted orders dated 30.1.2002, whereby educational qualifications have to be met. According to the applicant her case has to be seen in the light of O.M. dated 30.6.1987 which is annexed to her rejoinder affidavit, where no restriction has been imposed regarding educational qualifications. In fact, it is stated as follows:

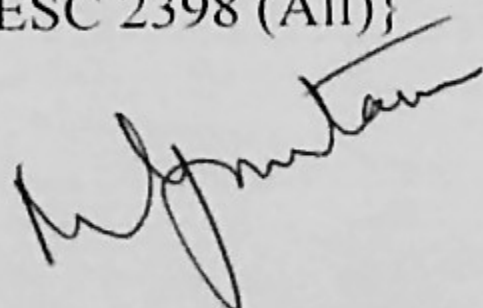
"Where a widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirements of educational qualifications, provided the duties of the post can be satisfactorily performed without having the educational qualification of Middle standard prescribed in the Recruitment Rules."



6. I have heard both counsel and perused the record on file. A perusal of the impugned orders will show that the case of the applicant was rejected on several grounds by the Circle Relaxation Committee, which has held that, since she had survived on her own for some years after the death of her husband, there was no case of immediate need. It has also been stated that, her case was not considered within one year and that no vacancies were available. But the delay in her case was not due to any fault of the applicant but was due to the legal complications which arose out of the claims made by the second lady. The applicant herself had made the application very much within the time and therefore she was not at fault. Another strong reason for rejecting her case was that, she did not possess any educational qualifications whereas, according to the letter dated 30.1.2002, educational qualifications of 'middle school pass' were necessary for appointment to group 'D' posts. The above does not hold good, as the applicant has rightly stated that her case is to be governed by the relevant circulation dated 30.6.1987 which has been placed on record by her, where no educational qualifications were required and not by the circular dated 30.1.2002.

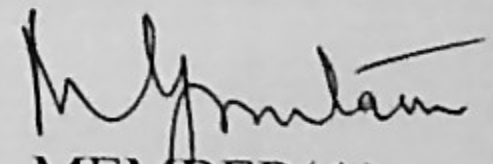
7. In this connection, the counsel for applicant also referred to the following cases:

1. State Bank of India & Ors. Vs. Jaspal Kaur (1) JT (3) SC 35
2. Smt. Vijay Laxmi Srivastava Vs. Union of India & others
{2009 (4) ESC 2398 (All)}



Wherein it has been held that, the rule which was prevalent at the time when the application was made, will be considered, and not the subsequent changes. The fact that the applicant could not be appointed within one year of the death of her husband was also not due to any fault of the applicant and cannot be held against her. The only parameter against which her case is to be decided is, whether it was a case of extreme need and indigency? The impugned order has not examined the matter from this angle, therefore, the impugned orders dated 17.11.2006 are quashed and set aside. The matter is remanded back to the respondents to decide afresh in the light of the observations made above, within a period of two months from the date of receipt of a copy of this order.

8. The O.A. is disposed of as above. No costs.


MEMBER(A)

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