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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 3rd DAY OF OCTOBER, 2012)

Present

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Original Application No.512 OF 2008

(U/S 19, Administrative Tribunal Act, 1985)

Durvasa Devi Wife of Late Ramesh Nishad,

Resident of Village-Hariharpur Sewari, P.S. Chandwak,

P.O. Kerakat, Tehsil-Kerakat, District-Jaunpur.

.....Applicant

V E R S U S

1. Union of India, through Secretary, Ministry of Water Resources, New Delhi.
2. Director (Administration), Jal Sansadhan Mantrayala, Govt. of India, Central Water Commissioner, New Delhi.
3. Chief Executive Engineer, Central Water Commission, Lucknow.
4. Executive Engineer, Central Water Commission, Madhya Ganga Mandal IIIrd, Panna Lal Park, Varanasi.
5. Superintending Engineer, Water Scientific Dispatch, Division Varanasi.

.....Respondents

Advocates for the Applicant:- Shri A. L. Tiwari

Advocate for the Respondents:- Shri Himanshu Singh

ORDER

Present original application has been filed under section 19 of Administrative Tribunals Act, 1985 whereby the applicant seeks direction from this Tribunal to direct the respondents to consider her case for appointment under dying in harness scheme.

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2. The facts of the case are that the applicant herein Smt. Durvasa Devi is the wife of Late Ramesh Nishad Son of Marjad Chaudhary who was working with the respondents as Khalasi. Shri Marjad Chaudhary was missing from 17.10.2002. An F.I.R. was also lodged and effort was made to know the whereabouts of Shri Marjad Chaudhary but all in vain. This fact was also not denied by the respondents. The mother-in-law of the applicant moved an application to Chief Engineer, Central Water Commission on 06.01.2003 for searching his husband who has disappeared from service. An application was moved on 24.4.2004 by the mother-in-law of the applicant for appointment of his son i.e. Ramesh Nishad who also unfortunately died in the year 2004 before the respondents consider his case. Faced with the situation, the applicant who is daughter-in-law of Marjad Chaudhary moved an application staking her claim on compassionate grounds.

3. Pursuance to notice, respondents represented through Shri Himanshu Singh who contested the claim of the applicant by taking objection that daughter-in-law does not come under the definition of family. Accordingly, his case cannot be considered.

4. Shri A.L. Tiwari, learned counsel for the applicant placed reliance on the judgment of Hon'ble High Court in the case of *U.P. Power Corporation Ltd. Vs. Smt. Urmila Devi passed in Special Appeal No.1026 of 2003 decided on 27.1.2011* and submitted that in view of the above judgment the daughter-in-law comes within the definition of family, therefore, his case is to be considered for appointment by the respondents. Shri Himanshu Singh very fairly conceded that in

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a judicial pronouncement, the Hon'ble High Court has held that daughter-in-law also come within the definition of family.

5. I have considered the rival submission and have gone through the record. The controversy has already been put to rest in the case of U.P. Power Corporation (Supra) wherein the Hon'ble High Court held as under:-

"We must, however, note one feature of the definition of the word? Family? as generally contained in most Rules. The definition of ?family? includes wife or husband; sons; unmarried and widowed daughters; and if the deceased was an unmarried government servant,? The brother, unmarried sister and widowed mother dependant on the deceased government servant. It is, therefore, clear that a widowed daughter in the house of her parents is entitled for consideration on compassionate appointment. However, a widowed daughter-in-law in the house where she is married, is not entitled for compassionate appointment as she is not included in the definition of? family?. It is not possible to understand how a widowed daughter in her father?s house has a better right to claim appointment on compassionate basis than a widowed daughter-in-law in her father-in-law?s house. The very nature of compassionate appointment is the financial need or necessity of the family. The daughter-in-law on the death of her husband does not cease to be a part of the family. The concept that such daughter-in-law must go back and stay with her parents is abhorrent to our civilized society. Such daughter-in-law must, therefore, have also right to be considered for compassionate appointment as she is part of the family where she is? Married and if staying with her husband's family. In this context, in our opinion,? Arbitrariness, as presently existing, can be avoided by including the daughter-in-law in the definition of 'family'. Otherwise, the definition to the extent, prima facie,? Would? Be irrational and arbitrary. The State, therefore, to consider this aspect and taken appropriate steps so that a widowed daughter-in-law like a widowed daughter, is also entitled for consideration by way of compassionate appointment, if other criteria is satisfied.

Learned Chief Standing Counsel to forward a copy of this order to the Secretary of the concerned Department in the State Government for Appropriate consideration.

With the above observations, the reference is disposed of."

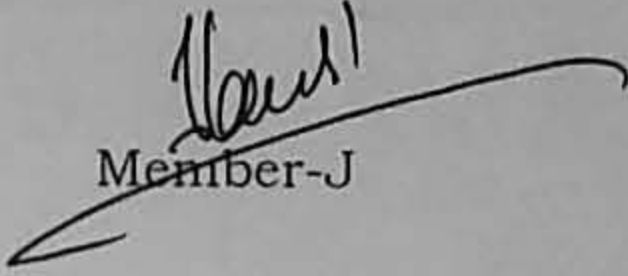
6. In view of the above, I am of the considered view that let the respondents consider the case of the applicant for appointment in

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terms of relevant rules within a period of six weeks from the date of receipt of a certified copy of this order.

7. OA stands disposed of in the above terms. No Costs.



Member-J

/ns/