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ALLAHABAD HIGH COURT (LUCKNOW BENCH)

ANITA SRIVASTAVA — Appellant

Vs.

STATE OF U.P.& ORS. — Respondent

(Before : S.N.Shukla, J)

Writ Petition No. 5376 (SS) of 1997

Decided on : 23-03-2006

A. Compassionate Appointment — Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 — Eligibility — Petitioner's husband died in service after being initially appointed for 85 days on a purely temporary basis and then reappointed for another 85 days — Respondents contended that he was no longer in service after the expiry of the second temporary period — Petitioner argued that deceased had worked for four years and cited previous judgments (Smt. Saroj Devi v. State of U.P. & Ors., 1999 (3) E.S.C. 2187 (All.); Santosh Kumar Mishra v. State of U.P. & Ors., 2001 (4) E.S.C. 1615) which held that benefit of rules can be given to dependents of deceased who worked for at least three years even on temporary basis — High Court found petitioner entitled to compassionate appointment. (Paras 3, 4, 5, 6)

B. Service Law — Compassionate Appointment — Deceased employee's service tenure — Temporary employment — Even if service was purely temporary, if the employee worked for a certain minimum period (three years), dependents may be eligible for compassionate appointment under relevant rules — Principle derived from judicial precedents. (Para 5)

JUDGMENT

Narayan Shukla, J.—By means of this writ petition, the petitioner has challenged the order

dated 29th October, 1996 rejecting the petitioner's representation for giving appointment under the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974.

2. The facts giving rise to this writ petition are that the petitioner's husband, Ashok Kumar Srivastava, who was inducted in service on 451990 as Junior Clerk in the office of Soil Conservation Officer, Matatila Project, Lalitpur, U.P., died on 17101995 in a train accident while he was in service leaving behind his wife, Smt. Anita Srivastava (petitioner) and three minor daughters. The petitioner moved an application on 25101995 requesting the District Agriculture Officer, Kanpur to clear of entire dues of her late husband and to appoint her on a suitable post on compassionate grounds. Later on, the petitioner sent a letter on 18121995 to the Chief Development Officer, Kanpur Nagar to the same effect. Thereafter, she moved several representations to the Additional Director Agriculture District Agriculture Officer, Kanpur and lastly to the Director Agriculture, Uttar Pradesh but all in vain. Then, she preferred the present writ petition.

3. Counteraffidavit has been filed by the Respondents No. 1 to 4 alleging therein that Mr. Ashok Kumar Srivastava, husband of the petitioner was appointed on the post of Junior Clerk for the period of 85 days vide appointment order dated 151990 on purely temporary basis. Again, he was reappointed on 2571990 for a period of another 85 days. After expiry of the aforesaid period, Mr. Ashok Kumar Srivastava was no more in service.

4. Rejoinder affidavit has also been filed by the petitioner controverting the facts mentioned in the counteraffidavit and stated that in Annexure 7 to the writ petition, which is letter to the Additional Director Agriculture, it has been mentioned that the deceased, Ashok Kumar Srivastava has put in four years' service. Therefore, in view of Section 2 (iii) of the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974, the petitioner is entitled to be appointed on the post of Junior Clerk.

5. The learned Counsel for the petitioner has relied upon the decisions rendered in the cases in Smt. Saroj Devi v. State of U.P. & Ors., 1999 (3) E.S.C. 2187 (All.) and Santosh Kumar Mishra v. State of U.P. & Ors., 2001 (4) E.S.C. 1615, wherein it has been held that the benefit of the said rules may be given to the dependents of the deceased who had worked for at least three years even on temporary basis.

6. Considering the entire materials on record, I am of the view that the petitioner is entitled for appointment on compassionate grounds under the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974.

7. The writ petition is allowed and the respondents are directed to consider the petitioner's case for providing her appointment on compassionate ground on a suitable post for which she may be found eligible and clear off the dues of her late husband within a period of two months from the date a certified copy of this order is produced before them. No order as to costs.