



2026:AHC:26150

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15834 of 2004 (Leading)

Smt. Madhu

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Mahesh Sharma, S.P. Singh, Sharad Sinha, Vinod Sinha
Counsel for Respondent(s)	:	C.S.C.

:with:

WRIT - A No. - 20 of 2026 (Connected)

Smt. Madhu

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Mahesh Sharma
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Mahesh Sharma, learned counsel for the writ petitioner as well as Sri S.K. Pal, learned Addl. Chief Standing Counsel for the State.
2. Learned counsel for the parties have made a joint statement that they do not propose to file any further affidavit and the writ petitions be decided on the basis of the documents available on record.
3. With the consent of the parties, the writ petitions are being decided at the fresh stage.
4. The case of the writ petitioner is that she happens to be the widow of one Vijay Pratap Singh, who was employed as Waterman on Class IV daily wage post on 01.01.1979. Thereafter on account of promotion of one Sri Deena Nath Chaturvedi and Mohd. Israil on Class-III post, two

vacancies of Class-IV post fell vacant. A Selection Committee was constituted and recommendation came to be issued on 06.02.1991 for appointment of the writ petitioner on Class-IV post against the substantive vacancy. On 04.04.2021, the Inspector General directed the Deputy Registrar to appoint the writ petitioner on substantive vacancy and since the order dated 04.04.1991 was not being complied with, so the husband of the writ petitioner preferred Writ-A No.30545/1991 in which on 24.03.1992, the following orders were passed:

"Standing Counsel was granted time to file counter affidavit.

No counter affidavit has been filed.

The respondent no.2 is directed to comply with the order of Inspector General (Registration) dated 04.04.1991.

List this case on 05.05.1992."

5. Thereafter on 5/6.03.1993, respondents complied with the order dated 04.04.1991 and granted appointment to the husband of the writ petitioner on the post of Peon. Though the husband of the writ petitioner was working on the post of Peon, however, Writ Petition No.30545 of 1991 came to be dismissed as infructuous on 08.09.1999, order whereof is quoted hereunder:-

"By efflux of time, this petition appears to have become infructuous. It is accordingly dismissed as become infructuous.

Interim order, if any, shall stand discharged."

6. The husband of the writ petitioner is stated to have filed a recall application, but the recall application seeking to restore the order dated 08.09.1999 passed in Writ Petition No.30545 of 1991 is not available on record. Thereafter the husband of the writ petitioner, Pratap Singh, who was working as Peon, expired on 29.09.2000. The writ petitioner claiming to be the wife of the deceased Pratap Singh, who was working on substantive post as Peon since 5/6.3.1993, who expired on 29.9.2000, the writ petitioner staked her claim for being accorded compassionate appointment. Thereafter the writ petitioner was appointed on compassionate appointment as Peon (Parichar) by the order of Inspector General (Registration), U.P. Allahabad dated 08.01.2021 and the

consequential order dated 18.01.2001 passed by the District Registrar, Mathura, Addl. District Magistrate (F&R), Mathura. Since the Writ Petition no.30545 of 1991, which was preferred by the husband of the writ petitioner Pratap Singh, in which an order came to be passed on 24.03.1992 for compliance of the order passed by the Inspector General (Registration) dated 04.04.1991, pursuant where to the husband of the writ petitioner was accorded appointment on the Class-IV post on 5/6.3.1993 and the said writ petition came to be dismissed on 08.09.1999 and it was alleged that the husband of the writ petitioner had not informed the department about dismissal of the writ petition. Thus the appointment of the writ petitioner on compassionate appointment was not held to be legal, and thereafter on 11.03.2004, an order came to be passed by the District Registrar, Mathura/ Addl. District Magistrate (F&R) Mathura cancelling the appointment of the writ petitioner and dispensing with her services.

7. Questioning the order dated 11.03.2004 passed by the District Registrar Mathura/ Addl. District Magistrate (F&R), Mathura dispensing with the services of the writ petitioner cancelling her appointment, the leading writ petition came to be preferred.

8. In leading writ petition, on 20.04.2004, the following orders were passed:-

"In the meantime, the operation of the order dated 11.03.2004, Annexure-11 passed by the Respondent no.3 shall remain stayed and the writ petitioner shall be entitled for payment of regular salary."

9. Thereafter, on 20.01.2024, the following orders were passed:-

"The petitioner claims that her husband was appointed on the post of Peon in the office of sub registrar on 6.3.1993 and he had worked as such continuously till his death on 29.9.2000. The appointment on compassionate basis was granted to the petitioner on 8.1.2001 after approval of the competent authority. The dismissal of writ petition no.30545 of 1991 as infructuous on 8.9.1999 cannot be treated as a ground to cancel the appointment of the petitioner on compassionate ground.

The averments in paragraph '9' of the writ petition that the husband of the petitioner was appointed on the post of Peon on 6.3.1993 has not been properly replied in paragraph '10' of the counter affidavit. Only this much is submitted that the petitioner's husband had rendered his services as per the directions of Hon'ble High

Court dated 24.3.1992.

By means of the order dated 24.3.1992 passed by this Court in the aforesaid writ petition, the respondent was directed to comply with the recommendation dated 4.4.1991 made by the Inspector General of Registration to consider the petitioner for appointment on Class-IV post. It is not known nor it has been clarified by the respondent as to whether the husband of the petitioner was appointed on a permanent post or it was a temporary engagement on 6.3.1993. The order of appointment is not on record.

It is, therefore, not possible for the Court to ascertain the nature of engagement of the petitioner's husband.

Both, the counsels for the petitioner and learned Standing counsel are directed to file affidavit to disclose the nature of appointment of the petitioner's husband in the office of sub-registrar as Peon on 6.3.1993.

Learned Standing counsel is hereby directed to place the entire record of selection and appointment of the petitioner. Three weeks time is granted to file supplementary counter affidavit.

Interim order, if any, granted earlier shall continue till the next date of listing.

Put up on 12.2.2021 in the additional cause list."

10. The writ petitioner being the compassionate appointee and wife of the deceased Pratap Singh since the date of her appointment i.e. 08/18.1.2001 continued to discharge the duties as Peon/Parichar and she superannuated on 30.09.2024. Post superannuation, since the pension was not being paid, so the writ petitioner preferred the connected writ petition. The connected writ petition came to be connected with the leading writ petition and it is before this Court.

11. Learned counsel for the writ petitioner has sought to argue that the order dated 11.03.2004 passed by the District Registrar Mathura/ Addl. District Magistrate (F&R), Mathura, dispensing with the services of the writ petitioner cannot be sustained for a single moment.

12. Elaborating the said submission, it is submitted that the husband of the writ petitioner namely Pratap Singh was accorded appointment by respondents themselves by virtue of a recommendation issued by the Inspector General (Registration) addressed to Deputy Registrar on 04.04.1991 and since the said recommendation was not being put to

action, thus the husband of the writ petitioner Pratap Singh preferred Writ-A No.30545 of 1991, in which an interim order was passed on 04.03.1992 requiring the respondents to comply with their own order and on 5/6.3.1993, the husband of the writ petitioner was accorded appointment on Class-IV post and since according to the husband of the writ petitioner, he has been accorded appointment, thus the writ petition remained unattended and the said writ petition came to be dismissed as infructuous on 08.09.1999. Though a recall application came to be preferred on 31.03.2000, but on 29.9.2000, the husband of the writ petitioner Pratap Singh expired. Submission is that once the recommendation of the respondents dated 4.4.1991 itself had been complied with by the respondents themselves and the said recommendation is still in existence and the husband of the writ petitioner has accorded appointment and he discharged the duty till his death and there was nothing adverse against the husband of the writ petitioner, then pendency or no pendency of the aforesaid writ petition would have no relevance, particularly when it is not a case wherein the Writ-Court had passed a positive order and rather to the contrary, the writ petitioner had only directed the respondents to comply with their own order. Contention is that once dismissal of the said writ petition has no relevance then according appointment to the writ petitioner on compassionate basis on 8/18.1.2001 is perfectly valid, as it is not a case of the respondents that the appointment of the husband of the writ petitioner, Pratap Singh was obtained illegally while practicing fraud. Submission is that the writ petitioner being a compassionate appointee is entitled to continue and she rightly continued under the interim order of the Court and post-retirement, she is entitled for post-retiral benefits. He further submits that the impugned order cannot be sustained for additional reason that before dispensing with the services of the writ petitioner, the writ petitioner was not put to notice.

13. Sri S.K. Pal, learned Addl. Chief Standing Counsel who appears on behalf of the respondents contended that the appointment of the husband of the writ petitioner was on the basis of her interim protection accorded in Writ-A No.30545 of 1991 and with the dismissal of the said writ petition, the entire rights stood extinguished.

14. I have heard the submissions so made across the Bar and perused the records.

15. Facts are not in issue. It is not in dispute that the husband of the writ petitioner namely Pratap Singh was working as Class-IV employee/Waterman on daily/adhoc basis and post promotion of two class IV employees on Class III post being Deena Nath Chaturvedi and Mohd. Israil, the writ petitioners claim for being considered for appointment as Class-IV employee stood considered by the Selection Committee and recommendation was made on 06.02.1991. Thereafter on 04.04.1991, the Inspector General (Registration), U.P. Allahabad issued a recommendation for appointment of the writ petitioner on substantive basis and since the recommendation dated 04.04.1991 was not being complied with, so the husband of the writ petitioner Pratap Singh preferred Writ-A No.30545 of 1991 in which an interim order came to be passed on 24.03.1992 for complying their own order. The writ petitioner's husband was accorded appointment as Class-IV appointment on 5/6.3.1993. Though the said writ petition came to be dismissed as infructuous on 08.09.1999, but what would be relevant is would be the fact whether the writ petitioner's husband continued on the basis of interim protection granted by the Court or not plainly or simply the writ-Court vide its order dated 24.03.1992 only required to respondents to comply with their own order dated 04.04.1991.

16. On a pointed query, raised to Sri S.K. Pal, learned Addl. Chief Standing Counsel whether the order dated 04.04.1991 recommending the appointment of the husband of the writ petitioner had been withdrawn or not, the answer is in negative. Thus it becomes clear that though there happened to be an interim order dated 24.03.1992 in Writ-A No.30545 of 1991, but the said interim order cannot be said to be the sole basis for according appointment, particularly when mere dismissal of the writ petition as infructuous would not take away the rights which flows in favour of the writ petitioner post passing of the order dated 04.04.1991. Though the husband of the writ petitioner is stated to have preferred a recall application for recalling of the order dated 08.09.1999, the writ petition's status is still "dismissed as infructuous".

17. Nonetheless, in the opinion of the Court, mere dismissal of the said writ petition as infructuous, would not be of much relevance, particularly when the husband of the writ petitioner continued to work on the Class-IV post till his death and the writ petitioner was accorded compassionate appointment. The issue can also be seen from another point of angle that the husband of the writ petitioner's appointment at no point of time was questioned being illegal as rather to the contrary, the recommendation was in favour of the husband of the writ petitioner and once he discharged his duty till his death, then the writ petitioner was accorded compassionate appointment. It is also not the case of the respondents that the writ petitioner was not qualified or she was not eligible and rather to the contrary, she continued though under interim order till superannuation on 30.09.2024. Bearing in mind the over all fact situation and also the fact that the writ petitioner had served the respondent till her retirement, thus the writ petition is entitled to the benefits.

18. Accordingly, the writ petitions are being decided in the following terms:

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(a) The order dated 11.03.2004 passed by the District Registrar Mathura/ Addl. District Magistrate (F&R) Mathura impugned in the leading writ petition is aside.

(b) A mandamus is issued to the respondents to make payment of retiral dues including pension and other service benefits and to pay salary to the writ petitioner on month-to-month basis, if it is in arrears till the date of her retirement within a period of four months from the date of certified copy of the order.

February 5, 2026

N.S.Rathour

(Vikas Budhwar,J.)