



2026:AHC:41662

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18535 of 2025

Aradhana

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Santosh Kumar Tiwari, Vikas Yadav
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard Sri Santosh Kumar Tiwari, learned counsel for the petitioner and Sri S.K. Pal, learned Additional Chief Standing Counsel, who appears for State-respondents.
3. The counsel for the rival parties have made a joint statement that they do not propose to file any further affidavits thus with the consent of the parties, writ petition is being decided at the fresh stage.
4. The case of the writ petitioner is that the father of the writ petitioner, namely, Rajendra Kumar who was initially appointed as a sweeper on 08.10.1986, however, he died-in-harness on 13.10.2019 though he was to retire on 28.02.2027. That after the death of the father of the petitioner, mother of the petitioner preferred an application before the respondents for according compassionate appointment to the petitioner who happens to be a married daughter. However the claim of the petitioner for compassionate appointment has been rejected on the ground that amendment to the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974, came to be amended on 12.11.2021 whereby now the married daughter also becomes entitled for claiming compassionate appointment whereas the death of the father of the petitioner occurred on 13.10.2019, thus, on the date of death of the father of the petitioner, there is no rule providing for compassionate appointment to married daughter *vide* order dated 25.06.2023.
5. Questioning the said order passed by the Superintendent of Police,

District- Bareilly negating the claim of the petitioner, the writ petitioner has been filed the present writ petition.

6. This Court entertained the writ petition on 12.01.2026 while passing the following orders:

"1. By the impugned order dated 25.6.2023 the claim of the petitioner who is the married daughter of the deceased employee for compassionate appointment has been rejected on the ground that the deceased who was working as Sweeper had died in the year 2019 and the G.O. dated 12.11.2021 has come into force subsequently whereby rule regarding compassionate appointment was amended wherein even the married daughter has been included to claim the compassionate appointment subject to dependency.

2. Learned counsel for the petitioner relying upon the judgement of Division Bench of this Court dated 4.12.2015 passed in Writ C No 60881 of 2015 (Smt. Vimla Srivastava Vs. State of U.P. and another) submits that the rule whereby the married daughter has been excluded from claiming compassionate appointment was declared unconstitutional in the year 2015 itself therefore in the year 2019 the petitioner was entitled to be considered for compassionate appointment subject to dependency of the petitioner upon the deceased employee.

3. In view of the above, the matter requires consideration.

4. Learned standing counsel for the State is directed to file counter affidavit within three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

5. Put up this matter on 24.2.2026, as fresh, before the appropriate Bench.

6. Instructions passed on to the Court are kept on record."

7. A counter affidavit have been filed sworn by Deputy Superintendent of Police (Traffic), District Bareilly dated 03.02.2026 to which rejoinder affidavit is available on record.

8. Learned counsel for the writ petitioner has submitted that the order impugned negating the claim of the petitioner for compassionate appointment cannot be sustained for the simple reason that though the Uttar Pradesh Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974, before its amendment as per clause 2(c) did not

provide married daughter to be a dependent, however, the word unmarried used in Rule 2(c)(iii) of the said Rules was struck down in ***Writ-C No. 60881 of 2015 (Smt. Vimla Srivastava v. State of U.P. and another)***, decided on 04.12.2015 and consequently, amendments were made in the rule providing for benefit of compassionate appointment to married daughters. Submission is that whatever might be, once the word "unmarried" employed in Rule 2(c)(iii) of the Rules was struck down then it would be deemed that married daughter becomes entitled for compassionate appointment irrespective of any amendment made subsequently. Contention is that in view of the judgement of the Hon'ble Apex Court in ***I.C. Golak Nath and others Vs. State of Punjab 1967 AIR 1643*** all the judgements of respective High Courts are retrospective in nature as the power of retrospectivity is only available to the Hon'ble Apex Court.

9. Learned Additional Chief Standing Counsel on the other hand submits that whatever might be on the date when the death of the father of the petitioner occurred, the Rules did not provide for compassionate appointment to the married daughter.

10. I have heard learned counsel for the parties and gone through the records carefully.

11. Facts are not in issue. It is not in issue that the father of the petitioner was working as a sweeper who died in harness on 13.10.2019 on the date when the death of the father of the petitioner occurred, the Rule 2(c)(iii) provided family to be inclusive of unmarried daughter who can claim compassionate appointment, however, in ***Smt. Vimla Srivastava (supra)***, the word unmarried in Rule 2(c)(iii) of the Rules was struck down and consequential amendments came to be made entitling married daughter for compassionate appointment on 12.11.2021. As a matter of fact, the position of the rule as of today is that the married daughter is entitled for compassionate appointment and so far as the offending portion of the rule in question dis-entitling married daughter is concerned, the same has been struck down. Since in the judgement of the ***Smt. Vimla Srivastava (supra)*** cannot be said to be in view of the language employed therein to be prospective in nature and not retrospective and following the judgement in ***I.C. Golak Nath and others (supra)*** the judgement of the High Court being retrospective, the writ petitioner cannot be denied benefits.

12. Accordingly, the writ petition is being decided in the following manner:

(a). The impugned order dated 25.06.2023 passed by the respondent no.4 is set aside.

(b). The matter stands remitted back to pass fresh orders on merits considering the financial status and the other relevant factors and to conclude the proceedings strictly in accordance with law within a period of three months from the date of presentation of the certified copy of the order bearing in mind the suitability, eligibility and competing claims if any.

13. Accordingly, the writ petition stands **disposed of**.

February 24, 2026

Ashu

(Vikas Budhwar,J.)