



2026:AHC:34869

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 17984 of 2025

Smt. Rama Devi And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Other

.....Respondent(s)

Counsel for Petitioner(s)	:	Ekta Kaur, Jagriti Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ekta Kaur, learned counsel for the petitioners and Sri Pramod Kumar Srivastava, learned Additional Chief Standing Counsel, who appears for State-respondents.

2. 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.

3. The case of the writ petitioner is that the writ petitioner's father namely, Sri Ramphal Singh (since deceased) was a Sub-Inspector in Police Station-Civil Line, District Moradabad who died in harness on 13.01.2004. The writ petitioner no. 1 who happens to be the widow of the deceased and the petitioner no. 2, daughter of late Ramphal Singh were dependent upon the deceased. The writ petitioner no. 2 approached the respondents for grant of compassionate appointment and on 20.09.2013, a communication came to be issued requiring the writ petitioner to submit inputs which the writ petitioner submitted. However the claim of the writ petitioner no. 2 was not being considered so she preferred Writ-A No. 19687 of 2014 (Pushpa Devi v. State of U.P. and 3 others) in which on 03.04.2014, the following orders were passed:

"By means of this writ petition, the petitioner has come up to this Court for a direction to the authorities concerned to consider her claim for compassionate appointment. The petitioner's father died in 2004 while in service and was holding the post of Sub Inspector. It is claimed that the petitioner completed her Intermediate in 2005 and thereafter applied for appointment but no decision has been taken so far by the authorities.

The writ petition is disposed of with the observations that respondent no.4 will consider her claim in accordance with law and pass appropriate order within a period of four months. It is made clear that this Court has not expressed any opinion on the merits of the case whether the petitioner is entitled for appointment or not. The authorities concerned will take decision on its own.

The writ petition is accordingly disposed of. "

4. Thereafter the claim set up by the writ petitioner came to be rejected on the ground that the writ petitioner no. 2 happened to be a married daughter, on 06.06.2014.

5. Questioning the order, the writ petitioner no. 2 preferred Writ-A No. 8457 of 2016 (Smt. Pushpa Devi @ Pushpa Kumari v. State of U.P. and 5 others) which came to be dismissed on 24.02.2016, orders whereof is quoted hereinunder:

"Heard Sri Ram Surat Saroj, learned counsel for the petitioner and Sri Mata Prasad, learned Additional Chief Standing Counsel for the respondents.

Petitioner is seeking quashing of the order dated 6.6.2014 whereby her claim for appointment on compassionate ground has been rejected on the ground that she is a married daughter.

It is not in dispute that the petitioner is the married daughter.

The learned standing counsel has placed reliance upon a Full Bench decision of this Court in Km. Shehnaj Begum Vs. State of U.P. And Others, (2013) 3 UPLBEC 2398 and submits that the Full Bench of the Court has held the definition of the word 'Family' as defined in Section 2 (c) to be exhaustive and submits that a married daughter does not fall within the meaning of 'Family' and therefore the claim of petitioner being a married daughter cannot be considered for appointment on compassionate ground.

The word 'Family' has been defined in Section 2 (c) of the Uttar Pradesh Recruitment of Dependents of Government Servants Dying-In-Harness Rules, 1974 which reads as under:-

"(c) "Family" shall include the following relations of the deceased Government servant:

(i) wife or husband;

(ii) sons/adopted sons;

(iii) unmarried daughters, unmarried adopted daughters, widowed daughters and widowed daughter-in-law;

(iv) unmarried brothers, unmarried sisters and widowed mother depended on the deceased Government servant, if the deceased Government servant was unmarried;

(v) aforementioned relations of such missing Government servant who has been declared as "dead" by the competent court:"

The Full Bench of this Court in Km. Shehnaj Begum (Supra) has considered the term 'Family' as defined in Section 2 (c) of the 1974 Rules and by way of conclusion has held the definition to be exhaustive. A married daughter does not find mention in the definition of 'family' and if the word 'family' has been held to be exhaustive it would mean that a married daughter would have no claim to be considered for appointment on compassionate ground. Therefore, in view of the law laid down by the Full Bench of this Court in Km. Shehnaz Begum (supra) the petitioner has no claim for being considered for appointment on compassionate ground.

In Writ Petition No.40877 of 2015, Somwait @ Girija and another vs. State of U.P. and another this Court has held that married daughter is not entitled for appointment on compassionate ground.

The writ petition is therefore dismissed in view of the judgement of this Court dated 15.2.2016 passed in Writ Petition No.40877 of 2015, Somwait @ Girija and another vs. State of U.P. and another and the Full Bench decision of this Court in Km. Shehnaz Begum (supra)."

6. An intra court appeal came to be preferred by the writ petitioner no. 2 being **Special Appeal No. 826 of 2016 (Smt. Pushpa Devi @ Pushpa Kumari v. State of U.P. and 5 others)** which came to be allowed on 08.12.2022, which is quoted hereinunder:

"Heard learned counsel for the appellant and the learned Standing Counsel for the State-respondents and perused the record.

This intra-court appeal is against the judgment and order of the learned single Judge dated 24.02.2016 dismissing Writ A No.8457 of 2016 filed by the appellant for quashing the order dated 06.06.2014 rejecting her claim for compassionate appointment only on the ground that she is a married daughter of the employee who died in harness.

Learned single Judge dismissed the writ petition of the appellant by relying on a Full Bench decision of this Court in Km. Shehnaj Begum Vs. State of U.P. and others : 2013 (3) UPLBEC 2398, wherein it was observed that the definition of 'Family' as provided in Rule 2 (c) of the U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (in short 1974 Rules) is exhaustive and as a married daughter is not included in the definition of 'Family' the claim set up by her for compassionate appointment is not sustainable.

Questioning the judgment and order of the learned single Judge, learned counsel for the appellant submitted that by a Division Bench judgment in Smt. Vimla Srivastava vs. State of U.P and another : 2016 (1) ADJ 21 (DB), the word 'unmarried' prefixed to the word 'daughters' in the definition of 'Family' in Rule 2(c)(iii) of the Dying in Harness Rules, 1974 has been struck down as being ultra vires Articles 14 and 15 of the Constitution of India therefore, the claim of the appellant (writ petitioner) for compassionate appointment would have to be accorded fresh consideration regardless of her marital status.

Learned counsel for the appellant contended that following the decision of this Court in Smt. Vimla Srivastava's case (supra) by distinguishing the decision in Km. Shehnaj Begum's case (supra), the claim of a married daughter of the deceased employee for compassionate appointment was directed to be considered by a Division Bench of this Court vide order dated 23.12.2015 in Special Appeal Defective No.863 of 2015 (Neha Srivastava Vs. State of U.P. and another), which was questioned before the Apex Court but the said challenge was dismissed. The order dated 23.07.2019 passed by the Apex Court in Special Leave to Appeal (C) No.22646 of 2016 against the decision in Neha Srivastava's case (supra) has been placed before us which reads as follows :

"The special leave petitions are dismissed.

As a sequel to the above, all pending interlocutory applications are disposed of."

Learned counsel for the appellant further submits that pursuant to the Division Bench decision in Smt. Vimla Srivastava's case (supra), the definition of 'Family' has been amended by the State by deleting the word 'unmarried' prefixed to the word 'daughters'.

In light of the above facts, it has been submitted that the judgment and order passed by the learned single Judge is liable to be set aside and the claim for compassionate appointment of the petitioner must be accorded

due consideration in accordance with the provisions of 1974 Rules.

Learned Standing Counsel representing the State-respondents submitted that the claim of the appellant relates to a period when the unamended Rules were in operation and since the unamended Rules did not provide the benefit of compassionate appointment to married daughters, the learned single Judge was justified in dismissing the writ petition.

We have considered the rival submissions. It is not in dispute that by Division Bench decision of this Court in Smt. Vimla Srivastava's case (supra), the word 'unmarried' in Rule 2(c)(iii) of the 1974 Rules has been held ultra vires Articles 14 and 15 of the Constitution of India. It is also not in dispute that following the said decision in Neha Srivastava's case (supra), a direction was issued to accord consideration to the claim of a married daughter. The challenge laid to the order of this Court in Neha Srivastava's case, has been dismissed by the Apex Court. In such circumstances, the order in Smt. Vimla Srivastava's case striking down the word 'unmarried' in Rule 2(c)(iii) of 1974 Rules stands. It is well settled that when a court declares a law it will have retrospective effect, if not specifically directed otherwise. There is nothing in Vimla Srivastava's decision (supra) that it would not apply to cases where the employee died in harness prior to the date of the judgment. Once that is the position, a claim of a daughter of the employee, who died in harness, for compassionate appointment under the 1974 Rules would have to be accorded consideration regardless of her marital status.

Consequently, as the claim of the appellant for compassionate appointment has been rejected only on the ground that she was married daughter of the deceased employee, the judgment and order of the learned single Judge dismissing the writ petition cannot be sustained. The appeal is therefore allowed. The order of the learned single Judge dated 24.02.2016 is hereby set aside. The order dated 06.06.2014 rejecting the claim of the appellant only on the ground that she is married daughter is quashed. A direction is issued upon the competent authority to decide the claim of the appellant afresh in accordance with law."

7. Thereafter now the order impugned came to be passed on 07.08.2025 and 15.07.2025 by the respondents holding that the claim of the writ petitioner is barred by limitation is delayed for a period of 14 years.

8. Questioning the order dated 07.08.2025 and 15.07.2025 of the State Government, the writ petitioner has been filed the present writ petition.

9. Learned counsel for the writ petitioner has submitted that the order

impugned cannot be sustained even for a single moment that there was no question of rejection of the claim for compassionate appointment on the ground of delay and laches, particularly, when the writ petitioner was litigating before the competent court of law and the stand taken by the respondents in the earlier spell of litigation that the writ petitioner happened to be a married daughter thus she cannot be accorded compassionate appointment, was turned down and thus now the claim of the writ petitioner, the compassionate appointment is to be considered on merits.

10. Learned Additional Chief Standing Counsel on the other hand submits that whatever might be the order passed by the State Government rejecting the claim of the writ petitioner for condonation of delay cannot be said to be illegal as delay is one of the major factor as once the legal heirs of the deceased family could sustain themselves for such long period then it would not be appropriate for issuing an order for consideration for compassionate appointment.

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

12. Facts are not in issue. It is not in issue that that the father of the writ petitioner no. 2 and the husband of the writ petitioner no. 1 expired on 13.01.2004. The writ petitioner no. 2 claimed compassionate appointment, inquiries were being made on 20.09.2012, a Writ-A No. 19687 of 2014 (Pushpa Devi v. State of U.P. and 3 others) came to be preferred by the writ petitioner no. 2 which was disposed of on 03.04.2014 for consideration of the claim of the compassionate appointment of the writ petitioner no. 2 which was rejected on the ground that the writ petitioner was a married daughter on 06.06.2014, the said order was subject matter of challenge in Writ-A No. 8457 of 2016 (Smt. Pushpa Devi @ Pushpa Kumari v. State of U.P. and 5 others) which was dismissed on 24.02.2016 against which an inter court appeal came to be preferred by the writ petitioner no. 2 being Special Appeal No. 826 of 2016 which came to be allowed on 08.12.2022 for considering the claim of the writ petitioner afresh in accordance with law.

13. Plainly and simply, at no point of time, earlier a ground of delay and laches was raised by the respondents and it is also not the case of the writ petitioner that the writ petitioner was in deep slumber. As she was alive to

her rights and she had approached this Court and the stand taken by the respondents that the writ petitioner is a married daughter, thus she cannot be considered for compassionate appointment, was not endorsed by this Court and once the position being so, it is not open for the respondents to throttle the claim of the writ petitioner on the pretext that there is a delay in approaching this Court.

14. Furthermore there is nothing in the order impugned which shows that there is any consideration on the merits of the claim of the writ petitioner that the family is not in destitution. Accordingly, the order impugned cannot be sustained.

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

(a). The order dated 07.08.2025/ 15.07.2025 passed by the State Government is set aside.

(b). The matter stands remitted back to pass fresh order on merits strictly in accordance with law within a period of two months from the date of presentation of the certified copy of the order.

16. Needless to point out that the writ petition has been decided without seeking any response from the respondents. Thus, passing of this order may not be construed to an expression that this Court has gone into the merits of the case and it shall be open for the adjudicating authority to consider the claim strictly in accordance with law bearing in mind the eligibility, entitlement, destitution of the family, if any and other relevant factors.

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

18. Instructions filed today are taken on record and marked as appendix A.

February 17, 2026

Ashu

(Vikas Budhwar,J.)