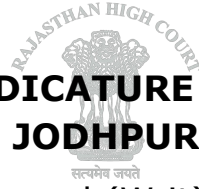




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



D.B. Special Appeal (Writ) No. 640/2018

1. State of Rajasthan through the Chief Engineer, Mahi Bajaj Sagar Project, Banswara.
2. The Chief Engineer, Mahi Baja Sagar Project, Banswara.
3. The Superintendent Engineer Construction Circle, Mahi Bajaj Sagar Project, Banswara.

----Appellants

Versus

1. Ashish Saxena son of Late Shri Ashok Saxena, by caste Kayast, resident of Banswara at present Plot No. 142, Hari Marg, Civil Line, Jaipur Raj..
2. Smt. Madhu Saxena, by aaste Kayast, resident of 5/45, Mahi Kafioni, Banswara Raj..
3. Sunny Saxena, by caste Kayast, resident of 5/45, Mahi Kafioni, Banswara Raj..

----Respondents

For Appellant(s) : Mr. Praveen Khandelwal, AAG
For Respondent(s) : Mr. Varda Ram Choudhary
Mr. Naresh Kumar Kumhar

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU**

Order

25/02/2026

1. The learned counsel for the State submits that the matter was part-heard by a Bench comprising Hon'ble Mr. Justice V.K. Mathur and Hon'ble Mr. Justice Bipin Gupta. However, it is noticed that the case has subsequently been listed before various other Benches. Therefore, it shall be deemed that the matter stood released from the concerned Bench.





2. The present case arises out of the application was filed by the petitioner for compassionate appointment upon the death of his father on 10.06.2006. The facts of the case are not disputed. The petitioner submitted the application within the prescribed time on 06.11.2006, after the demise of his father on 30.09.2006. However, the petitioner was asked to get the succession certificate from the competent Court. Subsequently, the petitioner obtained the succession certificate, but even thereafter, his case was not considered and he was not granted compassionate appointment. Aggrieved thereby, he preferred a writ petition, which was allowed by the learned Single Judge vide order dated 18.01.2017.

3. The State has assailed the said order on the ground that, after the divorce between the petitioner's parents, the petitioner has been residing with her mother and, therefore, the petitioner ceased to be dependent upon his father and was consequently not entitled to compassionate appointment. It is further contended that the petitioner is now about 39 years of age and, on this ground also, he does not deserve to be granted compassionate appointment.

4. Learned counsel for the respondent supports the impugned order and submits that there is no illegality therein. It is argued that the petitioner approached this Court within time and merely because of the pendency of the present appeal, his rights cannot be defeated. It is further submitted that a decree of divorce between the parents would not render the petitioner non-dependent upon his father. Reliance has been placed upon the Rajasthan Compassionate Appointment of Deceased Government Servant Rules, 1996 (for short, "the Rules of 1996"), particularly





the definition of "dependent," to contend that a son of the deceased government servant falls within the ambit of the said definition. It is also submitted that the insistence upon a succession certificate was wholly unjustified in the facts of the present case.

5. We have heard learned counsel for the parties and perused the material available on record.

6. The principal contention of the State is that after the divorce proceedings, the petitioner ceased to be a dependent of the deceased government servant. In this regard, it would be appropriate to reproduce the definition of "dependent" as contained in Rule 2(c) of the Rules of 1996:

"2.

(a)...

(b)...

(c) "Dependent" means, -

(i) Spouse, or

(ii) Son including son legally adopted by the deceased Government servant during his/her life time, or

(iii) unmarried/widowed /divorced daughter including daughter legally adopted by the deceased Government servant during his/her life time or

(iv) married daughter, if no other dependent of the deceased Government servant mentioned in clause (ii) and (iii) above is available, or

(v) mother, father, unmarried brother or unmarried sister in case of unmarried deceased Government servant,

who was wholly dependent on the deceased Government servant at the time of his/her death."

7. A bare reading of the aforesaid provision makes it clear that a "son" is expressly included within the definition of "dependent". Merely because divorce had taken place between the parents, the status of the petitioner as a son of the deceased government servant cannot be negated. The denial of compassionate appointment to the petitioner on this ground was clearly





untenable. Further, it is not disputed that the petitioner was the legitimate son of the deceased government servant; hence, seeking a succession certificate from him was absolutely unwarranted. The other objection raised by the State regarding the appointment granted to the second wife of the deceased government servant also does not advance its case.

8. The record clearly reflects that the appointment to the second wife was granted after the petitioner had applied for appointment under the compassionate appointment scheme. She secured regular appointment under the widow quota and, therefore, such appointment cannot divest the petitioner of his independent right of appointment under the Rules of 1996.

9. It is strange to note that although the petitioner had applied within almost a month of the death of his father and was within the eligible age for appointment, but however, the petitioner has been denied his legitimate claim by the respondent-department on absolute frivolous grounds. Although the State has raised the defence regarding the age of the petitioner but nevertheless when the delay is caused in the administrative process and due to the pendency of the litigation in the Court, the same cannot be attributed to the petitioner. Denying the benefit to the petitioner on this ground would be unjustified.

10. The learned Single Judge duly considered all the grounds raised by the petitioner in its judgment dated 18.01.2017.

11. Hence, in view of the observations made above, we see no ground to interfere in the order dated 18.01.2017 passed by the learned Single Judge.





12. Accordingly, the present special appeal (writ) filed by the State is dismissed.

13. All pending applications also stand disposed of.

(BALJINDER SINGH SANDHU),J (SANJEEV PRAKASH SHARMA),ACJ

49-Kshama Dixit/-

