



2025:AHC-LKO:65045

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**WRIT - A No. - 34651 of 2018
A.F.R.**

Devendra Pratap Singh

.....Petitioner(s)

Versus

State Of U.P Thru Prin Secy Consumer Protection And Ors

.....Respondent(s)

Counsel for Petitioner(s)	:	Vijay Pathak, Bhanu Pratap Mishra
Counsel for Respondent(s)	:	C.S.C

Court No. - 7

HON'BLE MANISH MATHUR, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. Petition has been filed challenging order dated 25th May 2016 whereby petitioner's application for compassionate appointment in terms of U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974, has been rejected primarily on the ground that he is not entitled in terms of Rule 2 of the aforesaid Rules.

3. It has been submitted that petitioner's elder brother, late Mahendra Pratap was engaged with opposite parties and passed away in harness on 9th October 2015. It is submitted that his wife had pre-deceased him on 12th February 2010 and since petitioner was dependent upon the deceased who was the sole bread earner of the family, petitioner submitted application for compassionate appointment which was rejected. Learned counsel has drawn attention to Rule 2 of the Rules of 1974 as amended subsequently in 2001 to submit that unmarried brothers dependent upon the deceased were clearly included in the term of "family" under Rule 2 of the Rules of 1974 and therefore opposite parties have erred in rejecting his claim particularly since the wife of deceased pre-deceased him.

4. Learned State Counsel has refuted submissions advanced by learned counsel for petitioner and has placed reliance on counter affidavit dated 17th January 2019 to submit that petitioner would come within entitlement only in case the deceased was unmarried. Since in the present case, it is admitted by petitioner himself that the deceased was married, he is clearly

debarred from entitlement.

5. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, the facts as narrated herein above are admitted. It is also evident that petitioner's application for compassionate appointment has been rejected solely on the ground that he is not entitled for the same in terms of Rule 2 of the Rules of 1974 since the deceased was married. The said Rule is as follows:

"2. Definitions. [In these rules, unless the context otherwise requires:

(a) "Government servant" means a Government servant employed in connection with the affairs of Uttar Pradesh, who-

(i) was permanent in such employment; or

(ii) though temporary had been regularly appointed in such employment; or

(iii) though not regularly appointed, had put in three years continuous service in regular vacancy in such employment.

Explanation. "Regularly appointed" means appointed in accordance with the procedure laid down for recruitment to the post or service, as the case may be :

(b) "deceased Government servant" means a Government servant who dies while in service;

2[(c) "family" shall include the following relations of the deceased Government servant-

(i) wife or husband;

(ii) sons/adopted sons;

(iii) daughters (including adopted daughters) and widowed daughters-in-law;

(iv) unmarried brothers, unmarried sisters and widowed mother dependent 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:

Provided that if a person belonging to any of the above mentioned relations of the deceased Government servant is not available or is found to be physically and mentally unfit and thus ineligible for employment in Government serv-ice, then only in such situation the word "family" shall also include the grandsons and the unmarried granddaughters of the deceased Government servant dependent on him.".]

(d) 'Head of Office" means Head of office in which the deceased Government servant was serving prior to his death. "

6. From a perusal of the amendment incorporated in Rule 2 of the Rules of 1974, it appears that subsequently the unmarried dependent brother has also been included in the term "family" of the deceased employee with the stipulation that he would be covered only in case he was dependent upon the deceased who should have been unmarried.

7. In the present case, it is evident and admitted that the deceased was married but his wife had pre-deceased him in the year 2010.

8. It is to be kept in mind that the primary purpose of Rules of 1974 are beneficial in nature in order to provide succour to family of the deceased in case the deceased was the sole bread earner.

9. The exclusion indicated in Clause 4 of Rule 2 (c) of the Rules of 1974 is in case the deceased was unmarried. Evidently the reasoning for such exclusion would be in terms of Clause 1 of Rule 2 (c) of Rules of 1974 since the primary right to claim such compassionate appointment has been conferred upon the spouse. It is for this reasoning that Clause 4 excludes all other unmarried members of family of deceased in case the deceased was married.

10. In the considered opinion of this court, the purpose of such exclusion obviously is to protect the rights of the spouse and to accord primacy to such spouse of the deceased employee to the exclusion of other unmarried members of the family.

11. It is thus evident that the said purpose of inclusion of clause 4 to Rule 2 (c) of Rules 1974 would not be applicable in those cases where the wife of deceased has pre-deceased him since no purpose would be served for such exclusion where the spouse of deceased employee himself is unavailable.

12. The Hon'ble Supreme Court in the case of K.H. Nazar versus Matthew K Jacob (2020) 14 SCC 126 had adjudicated upon the purpose of beneficial legislation in the context that widest amplitude and explanation is required to be given to such beneficial legislations so that its purpose is not defeated. The relevant portion of the aforesaid judgment is as follows:-

" 11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335] .

12. In the words of O. Chinnappa Reddy, J. [*Workmen v. American Express International Banking Corpn.*, (1985) 4 SCC 71 : 1985 SCC (L&S) 940] , the principles of statutory construction of beneficial legislation are as follows: (*Workmen case* [*Workmen v. American Express International Banking Corpn.*, (1985) 4 SCC 71 : 1985 SCC (L&S) 940] , SCC p. 76, para 4)

"4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as 'social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced. Judges ought to be more concerned with the "colour", the "content" and the "context" of such statutes (we have borrowed the words from Lord Wilberforce's opinion in *Prenn v. Simmonds* [*Prenn v. Simmonds*, (1971) 1 WLR 1381 : (1971) 3 All ER 237 (HL)]). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, *Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court* [*Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court*, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] , we had occasion to say: (*Surendra Kumar Verma case* [*Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court*, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] , SCC p. 447, para 6)

'6. ... Semantic luxuries are misplaced in the interpretation of "bread and butter" statutes. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the court is not to make inroads by making etymological excursions.' "

13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified and then a construction that suppresses the problem and advances the remedy should be adopted. [*Indian Performing Rights Society Ltd. v. Sanjay Dalia*, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction [*Shivram A. Shiroor v. Radhabai Shantram Kowshik*, (1984) 1 SCC 588] . It was observed in *Shivram A. Shiroor v. Radhabai Shantram Kowshik* [*Shivram A. Shiroor v. Radhabai Shantram Kowshik*, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in *Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council* [*Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council*, 2008 HCA 48 : (2008) 237 CLR 285] , Kirby, J. held that the principle of providing purposive construction to beneficial legislations

mandates that exceptions in such legislations should be construed narrowly."

13. With regard to interpretation of statutory provisions, requirement also is for examining the object sought to be achieved by such a provision and the nexus of any exclusion clause to the object sought to be achieved. Regarding such proposition Hon'ble Supreme Court in the case of Director General, CRPF & Ors vs. Janardan Singh & Ors. reported in 2018 LAB. I.C. 3302 after considering various earlier judgments has held that although Article 14 does not prohibit reasonable classification but at the same time the said classification must be founded on an intelligible differentia and that such differentia must have a rational nexus to the object sought to be achieved by such classification. Relevant paragraphs of the aforesaid judgment are as follows:

"18. Article 14 does not prohibit reasonable classification but for passing test of permissible classification there are two conditions which have been time and again laid down and reiterated. It is useful to refer to the Constitution Bench Judgment of this Court in AIR 1955 SC 191, Budhan Choudhary versus State of Bihar in paragraph 5, following has been laid down.

5???..It is now well established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases; namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure???."

19. Another judgment which needs to be noticed with regard to Article 14 is a judgment of this Court in AIR 1970 SC 1453, Harakchand Ratanchand Banthia and Others vs. Union of India and others. In paragraph 23, following has been laid down:

"23. ??..When a law is challenged as violative of Article 14 of the Constitution it is necessary in the first place to ascertain the policy underlying the statute and the object intended to be achieved by it. Having ascertained the policy and object of the Act the Court has to apply a dual test in examining its validity (1) whether the classification is rational and based upon an intelligible differentia which distinguishes persons or things that are grouped together from others that are left out of the group

and (2) whether the basis of differentiation has any rational nexus or relation with its avowed policy and object?? "

14. Upon applicability of aforesaid judgments in the facts and circumstances of the case, the object sought to be achieved by exclusion indicated in the rules pertaining to unmarried brother would be inapplicable where the spouse of deceased employee is also deceased at the time of consideration of applications for compassionate appointment.

15. In view of discussion made herein above, it being evident that the wife of deceased employee pre-deceased him in the year 2010 and it is not anybody's case that he subsequently re-married or had a spouse living at the time of his demise, in the considered opinion of this court, the rejection of petitioner's claim on that ground is unsustainable.

16. Considering aforesaid, impugned order dated 25th May 2016 is hereby quashed by issuance of writ in the nature of Certiorari. A further writ in the nature of Mandamus is issued commanding the opposed party No.3 i.e. Assistant Controller Vidhik Maap Vigyan Faizabad Range, Faizabad to revisit petitioner's application for compassionate appointment in case he is able to substantiate that he was dependent upon the deceased brother. Such a decision shall be taken by the concerned authority expeditiously within a period of six weeks from the date a certified copy of this order is served upon the concerned authority.

17. Resultantly, the petition succeeds and is allowed. Parties to bear their own costs.

October 16, 2025
prabhat

(Manish Mathur,J.)