



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

D.B. Spl. Appl. Writ No. 1119/2022

Smt. Durga Devi Mairda W/o Late Shri Basant, Aged About 40 Years, Resident Of Village And Post Dhalkiya, Tehsil And District Banswara.

----Appellant

Versus

1. State Of Rajasthan, Through The Principal Secretary, Public Health And Engineering Department, Secretariat, Jaipur.
2. Chief Engineer Administration, Public Health And Engineering Department, Jaipur.
3. Chief Engineer, Public Health And Engineering Department, Jaipur.
4. Superintending Engineer, Public Health And Engineering Department, Circle Udaipur.
5. Executive Engineer, Public Health And Engineering Department, District Rural Division, Udaipur.

----Respondents

For Appellant(s) : Mr. Ramdev Potalia.
For Respondent(s) : Mr. Pankaj Sharma, AAG with
Mr. Rishi Soni & Mr. Deepak Chandak.

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI**

Judgment

Reportable

02/01/2024

Per Dr. Pushpendra Singh Bhati, J:

1. By way of this Special Appeal, the writ petitioner-appellant has challenged the order dated 28.09.2022 passed by the learned Single Judge of this Hon'ble Court in S.B. Civil Writ Petition No.624/2018 (Smt. Durga Devi Vs. State of Rajasthan & Ors.) whereby the writ petition filed by the writ petitioner-appellant was dismissed.



2. In the eventful factual background of the case, as revealed from the record, it is indispensable and essential to present the fascicule and prefatory introduction of the circumstances surrounding the issue in question, being faced by the family of the writ petitioner/appellant and the like, in the given factual situation.

3. Death is an inevitable circumstance of every human life, which extinguishes the life-spark of every person at a given point of time, and spiritually thus, it is called as "Ultimate Wish of the Almighty". But the problem arises as soon as the death occurs untimely, that is to say in a particular given situation, when there is only one person who earns for the whole family and that 'only' dies, thereby, it becomes quite difficult for his/her dependents to survive, especially, for the middle-class family, and the lower class, in particular.

4. At every walk of life, more particularly, till a person starts earning of his/her own and the like situation, he/she has an earning member(s) in his/her family, whether father or mother, or both, and the like, to fulfill all the needs and demands – whether basic or luxury – in the best possible manner, but the consequences, of there being no such earning member(s) in the family, are not beyond anyone's imagination.

5. Though it is an admitted and inevitable fact that the death is a major human tragedy, but it is a trauma to be lived with by those left behind as dependents of a person (who died in harness), more particularly, leaving behind no amount of adequate property and source of income for his/her dependents, at least, to



provide immediate succour to the family under bereavement to meet the sudden financial crisis occurred on count of death of the sole bread earner of the family.

6. In the present times, when the cost of living is ever escalating, we must remember that though the compassionate appointment is not a hereditary/vested right, but in the just and warranting circumstances, compassionate appointment to any of the eligible dependents of a deceased government servant (who died in harness) is not just a favour from the State, but rather it is a means to meet the financial hardship being faced by the whole family, on count of death/untimely death of the sole bread winner.

7. In the modern times to deal with such an unfortunate and inevitable eventuality and to provide impetus to the means of livelihood to the families, whose sole bread winner dies in harness, Rules have been framed by the State Governments across the country. In the State of Rajasthan, the Rules so promulgated for the said purpose, are known as '*Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996*' (hereinafter referred to as '*Rules of 1996*'). Rule 2(c) of the said Rules stood amended by notification dated 28.10.2021 vide the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants (Amendment) Rules, 2021.

8. Now adverting to the facts of the case, as placed before this Court by learned counsel for the writ petitioner/appellant, Smt. Gawari Devi was a Class IV employee in the respondent-Department and was having two sons i.e. Shankar and Basant. The present appellant got married with one of the sons of Smt.



Gawari Devi i.e. Basant. The tragedy struck the family and the elder son of Smt. Gawari Devi namely Shankar expired on 17.11.2006. The husband of the appellant namely Basant also expired on 26.08.2007.

8.1 After both the sons of Smt. Gawari Devi expired, the dependence of the whole family fell upon Smt. Gawari Devi alone, but as the law of nature always prevails, the tragedy did not stop and Smt. Gawari Devi also expired on 07.02.2013.

8.2. The appellant (widowed daughter-in-law of Late Smt. Gawari Devi) submitted an application alongwith all the necessary documents and affidavit before the respondents seeking compassionate appointment in place of her mother-in-law, who had expired while in service, and the appellant being the direct dependent upon her invoked the provisions of the Rules of 1996.

8.3. The respondent Executive Engineer, Public Health and Engineering Department, District Rural Division, Udaipur vide its letter dated 20.03.2013 informed the appellant that she being the daughter-in-law of the deceased government servant (Smt. Gawari Devi), was not entitled to get the appointment under the provisions of the Rules of 1996, which was Annexure-6 of the writ petition and became the bone of contention, giving rise to the present cause of action. The respondents informed the appellant about the deficiencies in her application on 10.07.2013.

8.4. The appellant made the necessary rectification in pursuance of the aforesaid letter dated 10.07.2013 and again submitted the claim for the decision to be taken by the respondents. In



pursuance of such claim by the appellant, the respondent-Chief Engineer, Public Health and Engineering Department again wrote a letter to the respondent-Superintending Engineer, Public Health and Engineering Department, Circle Udaipur on 12.03.2014 mentioning therein that the appellant was not covered under Rule 2(c) of the Act of 1996 as a dependent of deceased government servant Smt. Gawari Devi, as the appellant was a daughter-in-law and not the son or the other dependent entitled as per the statute to seek compassionate appointment. Such decision was informed by the respondent-Superintendent Engineer, Public Health and Engineering Department, Circle Udaipur vide letter dated 21.03.2014, which is also part of the pleading as Annexure-10 to the writ petition. The appellant submitted a representation with regard to compassionate appointment to the State Government as well as the then Hon'ble Chief Minister of the Rajasthan.

8.5. It is also not in dispute that the appellant was one of the recipients of the insurance and other dues upon the death of Smt. Gawari Devi (government servant). It is further not in dispute that all the family members were on the same wavelength, which prompted them to forward the case of the present appellant for the compassionate appointment and it is not the case where there were multiple claims in regard to the appointment on compassionate grounds.

8.6. When the representations did not create any positive impact upon the rights of the present appellant, she belonging to the last strata of the poor citizens and also being educated to a very limited extent waited in hope, but when nothing came out, she



had preferred the writ petition for which, the necessary instructions were given to her lawyer in the year 2017 and the writ petition was filed in the first week of January, 2018, with the following prayers:

"It is therefore, respectfully prayed that,-

(a)- by an appropriate writ, order or direction, this petition may kindly be allowed with costs and the respondents may kindly be directed to consider the case of the petitioner and she may be given appointment on compassionate ground in place of her mother-in-law Gawari Bai who died while in service as without taking into consideration that the petitioner is daughter in law as the category of the petitioner falls within the definition of dependent with all consequential benefits from the date, the same are due to her.

(b)- by an appropriate writ, order or direction, this petition may kindly be allowed with costs and order dated 20.03.2013(Annex06.) and 21.03.2014(Annex.10.) passed by the respondent authority may kindly be quashed and set aside.

(c)- Any other appropriate writ, order or direction, which this Hon'ble Court deem just and proper be passed in favour of the petitioner.

(d)- Costs of this writ petition may kindly be allowed to the petitioner."

8.7. The State Government filed a reply to the writ petition, in which, no conflict to the factual matrix was reflected to the effect that Late Smt. Gawari Devi was working as Class IV employee in the Office of Executive Engineer, Public Health and Engineering Department, Rural Division, Udaipur and she died while in service on 07.02.2013. It is also not disputed in the reply of the State that the two sons i.e. Basant and Shankar of Late Smt. Gawari Devi also expired on 26.08.2007 and 17.11.2006 respectively. Late Smt. Gawari Bai, during her lifetime, had nominated her grandchildren to receive all the financial benefits accruing out of



her service and accordingly, the same were granted. The respondent-Department also seems to have made a serious contemplation in defining moments of the tragedy that struck the family, but was unable to grant any relief because they, as reflected in the reply, also have gone by the strict definition of the term 'dependent' as per the Rules of 1996, in which, the daughter-in-law is not a person being a dependent of the deceased government servant. The relevant Rule 2(c) of the Rules of 1996, as amended in the year 2021, reads as follows:

"2(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."

8.7.1. Thus, the crux of the State's reply solely to the writ petition was that the appellant does not fall within the definition of 'dependent'.

8.7.2. This Court takes note of the fact that not a single line in the reply is regarding any kind of delay or any other irregularity or illegality in the claim of the appellant, who has claimed the compassionate appointment. In reiteration, the sole ground taken



by the State pertains to the definition of 'dependent' as contained in the afore-quoted Rule 2(c) of the Rules of 1996 (as amended in the year 2021).

9. Mr. Ramdev Potalia, learned counsel appearing on behalf of the appellant submits that vide the judgment dated 04.07.2023, the Division Bench of this Hon'ble Court in the case of **State of Rajasthan & Anr. Vs. Sushila Devi : D.B. Special Appeal Writ No.383/2023**, has, while dealing with the catena of judgments cited on both the sides in the said case, upheld the order dated 19.12.2022 passed by the learned Single Bench of this Hon'ble Court in **Sushila Devi Vs. State of Rajasthan & Anr. : S.B. Civil Writ Petition No.521/2011**, whereby the relief of compassionate appointment was granted to a widowed daughter-in-law.

9.1. Learned counsel, while taking this Court to the judgments rendered in the case of **Sushila Devi (supra)** by the Hon'ble Division Bench as well as learned Single Bench, has tried to demonstrate that in the similar circumstances, where the sons of the deceased government servant also expired and the mother-in-law also thereafter, has expired, the widowed daughter-in-law was granted compassionate appointment in place of her mother-in-law (deceased government servant).

10. On the other hand, Mr. Pankaj Sharma, learned Additional Advocate General assisted by Mr. Rishi Soni and Mr. Deepak Chandak appearing on behalf of the respondents, while not being in a position to deny the bearing and impact of the judgment rendered by this Hon'ble Court in the case of *Sushila Devi (supra)*, in the present case, went on to rely upon the precedent law laid





down by the Hon'ble Apex Court in ***The State of West Bengal Vs. Debabrata Tiwari & Ors. : Civil Appeal Nos.8842-8855 of 2022***, decided on 03.03.2023.

10.1. Learned Additional Advocate General, while submitting that the inordinate delay, which has been a sufficient ground to deal with the compassionate appointment cases and the reason sufficient why the compassionate appointment ought to be denied in such cases, has particularly, referred to para 32 & 35 of the judgment rendered in ***The State of West Bengal Vs. Debabrata Tiwari & Ors. (supra)***, which read as follows:

"32. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis. ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and





marital status of its members, together with the income from any other source.

35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee."

10.2. Learned Additional Advocate General further submits that the strict interpretation of the rule will not help the appellant and the inordinate delay in claiming the compassionate appointment is sufficient to dampen the rights of the appellant.

11. Heard learned counsel for the parties as well as perused the record of the case, alongwith the judgments cited at the Bar.

12. This Court observes that the peculiar factual matrix of the case warrants intervention of this Court so much so that Late Smt. Gawari Devi, during her lifetime, lost both her sons i.e. Basant and Shankar untimely on 26.08.2007 and 17.11.2006 respectively.



The writ petitioner-appellant Smt. Durga Devi is admittedly the wife of Late Basant Kumar and daughter-in-law of Late Smt. Gawari Devi, who expired while in service leaving the family to struggle with the financial miseries on 07.02.2013. The family mustered their resources to move an application for compassionate appointment, which was sought under the Rules of 1996, while keeping ahead the name of Smt. Durga Devi to be a recipient of such benefits as all the other successors admittedly agreed to such proposition of grant of compassionate appointment to the widowed daughter-in-law (the appellant herein).

13. This Court further observes that the letters, which pertain to correspondence between the senior officers respondents, clearly show that the State kept on contemplating the claim of the appellant for appointment on compassionate grounds, upto 2014, to the effect as to whether such compassionate appointment can be accorded or not, and finally arrived at a considered conclusion that the appellant (widowed daughter-in-law) does not fall within the definition of Rule 2(c) of the Rules of 1996.

14. This Court also observes that the appellant further being a poor person, attempted to reach out to the State by making representations to the then Hon'ble Chief Minister and the other functionaries of the State Government and waited for their just response. It is also noted by this Court that other death -cum- retiral benefits were being settled by the respondents even upto 2017. The writ petition prepared in the year 2017 was filed in January, 2018 and the learned Single Judge of this Hon'ble Court has dismissed the same on the ground of delay as well as the



absence of statutory provisions, being a sufficient ground to deny widowed daughter-in-law the benefit of compassionate appointment.

15. This Court further observes that the judgment rendered in ***Sushila Devi's case (supra)*** by the Hon'ble Division Bench is in the same circumstances where the mother-in-law died and her son also expired and thus, the widowed daughter-in-law remained the only person in the family to defend the miseries of poverty and untimely demises in the family. This Court also observes that while delivering the verdict in the case of ***Sushila Devi (supra)***, the Division Bench of this Hon'ble Court has deliberated upon the judgment of ***Smt. Pinki Vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.9177/2010, decided by the learned Single Bench of this Hon'ble Court on 12.09.2011)*** the precedent law laid down by the Hon'ble Apex Court in the case of ***Director of Treasuries in Karnataka & Anr. Vs. V. Somyashree (Civil Appeal No.5122/2021, decided on 13.09.2021)*** and the judgment rendered by this Hon'ble Court at Jaipur Bench in ***Smt. Sapna Vs. University of Rajasthan & Ors. : D.B. Civil Writ Petition No. 9686/2020 decided on 04.12.2020*** at length as cited by both the parties. It is also brought to the notice of this Court that the judgment dated 04.07.2023 rendered by the Division Bench of this Hon'ble Court in ***Sushila Devi (supra)*** has been upheld by the Hon'ble Apex Court vide its order dated 09.10.2023 passed in ***Petition(s) for Special Leave to Appeal(C) No(s).21240/2023 (The State***



of Rajasthan & Anr. Vs. Sushila Devi). The said order dated 09.10.2023, in entirety, reads as under:

"In the peculiar facts and circumstances of the instant case, we are not inclined to entertain the present petition. The Petition for Special Leave to Appeal is, accordingly, dismissed along with pending application(s), if any."

16. This Court also observes that Rule 2(c) of the Rules of 1996, which defines the dependent has been dealt with at length by this Hon'ble Court in the judgment rendered by the learned Single Bench in the case of **Smt. Pinki (supra)**, for the purpose of purposive interpretation; the relevant portion whereof is reproduced hereunder:

"9. Lord Denning in Magor and St Mellons v. Newport Borough Council (1952) HL, said that "we sit here to find out the intention of Parliament and carry it out and we do this better by filling in the gaps and making sense of the enactment than by opening it up to destructive analysis". Justice Aharon Barak, President of the Supreme Court of Israel, while discussing the scope of doctrine of the "purposive interpretation" pointed out that "in carrying out a purposive interpretation of a constitution or a statute, it is necessary to distinguish between its subjective and objective purposes. The subjective purpose of a constitution or statute is the actual intent that the authors of it, namely, the framers of the constitution or the legislature, respectively, held at the time of the making of the constitution or the statute. On the other hand, the objective purpose is not what the author actually intended but rather what a hypothetical reasonable author would have intended, given the context of the underlying legal system, history and values, etc. of the society for which he is making law. This objective purpose will thus usually be interpreted to include the realization, through the given legal text, of the fundamental or core values of the legal system."

10. The Francis Bennion in a book of Statutory Interpretation (4th edition 2002 page 810) defined the purposive interpretation as under:-



"A purposive construction of an enactment is one which gives effect to the legislative purpose by: (a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose, or (b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose."

11. The doctrine aforesaid is not alien to our jurisprudence also. The only caution given by the Apex Court in several judgments including the *J.P.Bansal v. State of Rajasthan & Anr.* (AIR 2003 SC 1405) and *State of Jharkhand v. Govind Singh & Anr.* (JT 2004(10) SC 349) is that the effect of such interpretation of a statute in no case should be of amending the law.

12. From the discussion above, it is clear that in exceptional cases, without having any effect of amending the law the Courts with a view to bring the law as per the reasonable and purposive intention of the law maker and also looking to all relevant objective conditions may adopt the doctrine of "purposive interpretation".

13. Now coming to the Rules of 1996, purpose of which is to provide a respite by way of employing his/her dependent during the time of distress/harness due to unexpected death of a government servant, it is to be examined that whether non-inclusion of "widowed daughter-in-law", as suggested by learned counsel for the respondents serves the purpose of the Rules or ultimately the intent of the author of the Rules. The scope of the Rules of 1996, as per Rule 4 is to govern appointment of the deceased government servant on compassionate grounds without conferring any right for a particular post. The Rule 5 of the Rules of 1996 provides certain conditions for appointment and those are:-

"(1)When a Government servant dies while in service one of his/her dependents may be considered for appointment in Government service subject to the condition that employment under these rules shall not be admissible in cases where the spouse or at least one of the sons, unmarried daughters, adopted son/adopted unmarried daughter of the deceased Government servant is already employed on regular basis under the central/ any State Government or Statutory Board, Organisation/Corporation owned or controlled wholly or partially by the Central/any State Government at the time of death of the Government servant. Provided that this condition shall not apply where the widow seeks employment for herself.



(2) Appointment under these rules shall be given on the condition that the person appointed on compassionate ground shall maintain properly the other family members who were dependent on the deceased Government servant and on furnishing an undertaking in writing that he/she shall maintain properly the other family members who were dependent on the deceased Government Servant. If subsequently, at any time, it is proved that such dependent family members are being neglected or are not being not being maintained properly by him, the appointment may be terminated by the Appointing Authority after providing an opportunity to the compassionate appointee by way of issue of show cause notice asking him to explain why his services should not be terminated."

14. At this point, the reference of the definition of the "Dependent" as given in Rule 2(c) of the Rules of 1996 shall be worthwhile which brings spouse, son, unmarried daughter or widowed daughter, adopted unmarried daughter and adopted son in its ambit, and as per Rule 5(1) the admissibility for appointment under the Rules of 1996 is not available, where the spouse or at least one of the sons, unmarried daughters, adopted son/adopted unmarried daughter of the deceased government servant is already employed on regular basis under the Central/any other State or the Statutory Board, Organisation/Corporation owned or controlled wholly or partially by the Central or any other State Government at the time of death of the government servant.

15. It is quite important to notice here that subrule(1) of Rule 5 of the Rules of 1996 do not mention about a widowed daughter who is otherwise a dependent as per Rule 2(c). This exclusion is having a significance. If the law framing authority was to provide inadmissibility for appointment on simplicitor employment of any dependent, then "widowed daughter" should have also been referred in Rule 5(1), but that has not been done purposely. The exclusion of the "widowed daughter" in Rule 5(1) is made only with a view that such a daughter is supposed to serve and support her in-laws and her own children also, therefore, even if she is having some employment with the institutions referred in sub-rule(1) of Rule 5, the other dependents shall be having admissibility for compassionate appointments. The exclusion of "widowed daughter" in Rule 5(1) in quite unambiguous terms depicts that the author of the Rules were aware about the fact that a "daughter-in-law", who also happens to be a "widowed daughter" is supposed to serve her inlaws, her children and also her parental family.





16. The question now arise *that if the law making authority was aware about the position of "widowed daughter-in-law" then why in the category of dependents under Rule 2(c) of the Rules of 1996, she as not been placed in explicit? To resolve this knot, a look on the relations expressly referred in the definition of dependents is desirable. The relations of spouse, son, adopted son, unmarried or adopted unmarried daughter in no way can include the relation of "widowed daughter-in-law", however, the term "widowed daughter" appears to be quite wide and that may include "widowed daughter-in-law" for the purpose of these rules.*

17. ***If the rule makers were intending to exclude "widowed daughter-in-law" from the category of dependents, then they would have include "widowed daughter" in the category of dependents, employment of whom makes appointment on compassionate grounds inadmissible under the Rules of 1996, but it has not been done. Meaning thereby, a "widowed daughter" is also a "widowed daughter-in-law", who is supposed to serve her in-laws and children. Thus, it appears that he term "widowed daughter-in-law" is part of "widowed daughter".***

17. This Court further observes that in the case of ***State of West Bengal Vs. Debabrata Tiwari (supra)***, there was a delay of ten years, and moreover, the petitioners were unable to satisfy the Hon'ble Court regarding the applicability of the circular/scheme for the purpose of compassionate appointment; however, as a clear distinction, this Court is dealing with the statutory Rules of 1996, and the Rules themselves are formidably there for the families in harness and have a wide amplitude for the purpose of laying down a protective layer over the families of the people, who untimely expired while in government service.

18. This Court is of the opinion that the verdict rendered in the case of ***Smt. Pinki (supra)*** was correct in the eye of law in the given circumstances as passed by learned Single Bench, and though the same was upheld by the Division Bench of this Hon'ble



Court vide judgment dated 05.01.2012 in **D.B. Civil Special Appeal (Writ) No.1915/2011 (State of Rajasthan & Ors. Vs. Smt.Pinki)** because of the factual parameters of the case as well as the legal matrix sounded for the purposive interpretation, but the question as to whether the widowed daughter-in-law would fall within the definition of the term 'dependent' as contained in Rule 2(c) of the Rules of 1996 was left open to be adjudicated in appropriate case in future separately for arriving at a final answer to the said question.

19. In the opinion of this Court, the claim of the appellant herein, who is a widowed daughter-in-law, for compassionate appointment, in the present facts and circumstances of the case is supported by the Division Bench of this Hon'ble Court in the case of **Sushila Devi (supra)**, and the same was upheld by the Hon'ble Apex Court vide the aforementioned order dated 09.10.2023. Thus, this Court considers it appropriate to adjudicate upon the question of law involved herein, which question was left open for adjudication by the Division Bench of this Hon'ble Court in the case of **Smt. Pinki (supra)**.

20. The term 'dependent' as occurring in Rule 2(c) of the Rules of 1996 (as amended in the year 2021), upon the purposive interpretation, should include widowed daughter-in-law in the circumstances where the widowed daughter and unmarried daughter have been included as a consequence which has to follow in the set up of the Indian Society where the widowed daughter-in-law at times has to take up the same role as the son and daughter particularly, when in the circumstances like in the



present case where there is no daughter and no son to defend the family against the miseries of poverty and destitution.

21. This Court is also of the view that the parameters of delay are not applicable in the present case because in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. (supra)*** where there was a delay of 10 years and the Courts were dealing with the circulars and schemes, which did not have a binding impact; whereas in the present case, not only there is a statutory protection which is available to the appellant, but also the consequence of the death in the year 2013 has continued with the respondents dealing with the same upto the year 2014 and so much so that the untimely demise benefits which had already accrued were being dealt with upto the year 2017 by the respondents and the appellant after making such representation and finding no way out has approached this Hon'ble Court in the beginning of the year 2018 by preferring the writ petition. Thus, it is not a delay which could attract the disqualification of the appellant for the compassionate appointment in question. Moreover in the present circumstances, where the whole family was dependent upon a Class-IV employee, namely, Late Smt. Gawari Devi, it is not a time period which has elapsed to enable them to tide over the crisis; this was only three years of intervening period when the appellant approached this Hon'ble Court and such time is not sufficient for a family in the given facts and circumstances where death of two young sons occurred untimely and the demise of the mother-in-law, to tide over the crisis of such consecutive bereavements.



22. This Court also observes that the jurisprudence laid down by the learned Single Bench of this Hon'ble Court in the judgment rendered in **Smt. Pinki (supra)** for purposive interpretation has gone at a great length to assess the impact of the legislative intention which are there behind the laws and once the dependents have been defined in a particular law and it has included widowed daughter then widowed daughter-in-law, which also forms a part of the same family in the same set up of the prevailing social fabric of this country, it is required that the purposive interpretation has to be upheld and has to be strengthened for the purpose of providing immediate relief to the family, of whom, the sole bread earner has died in harness, and thus, there can be no reason why such interpretation cannot be drawn or such conclusion cannot be arrived at in the given circumstances.

23. In view of the aforementioned precedent laws, more particularly, in regard to purposive interpretation, this Court observes that in a modern but traditional society like ours, it would be unreasonable to have a hyper-technical approach towards the legislative intent to the meaning given to a particular word ('dependent' in the present case), that was used at the time when the Rules, like the Rules of 1996 were promulgated. For a modern legislature framing laws to govern the society which is fast moving must be presumed to be aware of an inclusive meaning that a particular concept or a particular term might attract with the march of time and match with the progressive changes brought in social, economic and other facets of human life. In



purposefully determining, as to who is a 'dependent' in the given factual situation, regard must be had to the context in which such expression occurs in the Rules of 1996, so also the purpose of such prescription.

23.1. Thus, in the present adjudicatory pursuit, it is not inconceivable that the expression "dependent" may, in a broad and general sense also include, in a given context, a "widowed daughter-in-law", more particularly, when a word, which is not defined contained in an enactment, like the Rules of 1996, has to be understood in its practical sense, with reference to the context in which it occurs i.e. in the sense in which people conversant with the subject matter with which the statute is dealing, would attribute to it, to ascertain the true intention of the legislature / Rule-making authority behind such framing/enactment. Thus, the task of making purposive interpretation of a particular term, indeed under the guiding principles, is a dynamic and creative function administered by the Courts to satisfy the need of the hour by disentangling the riddles for the purpose of doing complete justice to the stakeholders.

23.2. It should not escape one's notice that in this process of such purposive interpretation, though it appears that a Court exerts a considerable influence on the statute law, since such influence is so obvious, manifest and perceptible that sometimes, the Courts have been considered to be making a law, which is not a correct observation, as the task of purposive interpretation has been done by the Courts, under the guiding principles laid down for the said purpose and to dispense complete justice to the concerned



persons, owing to their continuing plight. The Courts also take resort to the task of purposive interpretation to advance the purpose of the welfare promulgation and to provide impetus to the purpose of such enactment.

24. Furthermore, it has been observed by the learned Single Bench of this Hon'ble Court in the judgment rendered in **Smt. Pinky (supra)** that, in Indian society, a daughter in law is supposed to be treated as a daughter. In the society a daughter-in-law, may she be widow, is always treated as an integral member of the family and she possesses all honour as well as the responsibilities of the household. In multi ethical society of India, daughter-in-law is supposed to take care of her in-laws family, even after death of her husband. Thus, this Court fails to understand, in view of the aforementioned factual backdrop and the judicial pronouncements enunciated on the subject that as to how the widowed daughter-in-law can be discriminated or distinguished as against other first layer components of the family, so far as the definition of the term 'dependent' as contained in Rule 2(c) of the Rules of 1996 (as amended in the year 2021) is concerned, just to deprive her of her legitimate right, in the just and warranting circumstances, of compassionate appointment on the death of the sole bread winner i.e. her mother-in-law (government servant died in harness) preceded by other consecutive instances of bereavement in the family in question.

25. In the present adjudication, the issue revolving around the interpretation of the term 'dependent' and whether it includes 'widowed daughter-in-law' as per under Rule 2(c) of the Rules of



1996, which, the Division Bench of this Hon'ble Court left open for adjudication, while upholding the judgment rendered by the learned Single Judge of this Hon'ble Court in the case of **Smt. Pinki (supra)**, for arriving at a final conclusion on the issue, is thus answered in the manner that the said term 'dependent' includes 'widowed daughter-in-law' in the term 'widowed daughter', while emphasizing the need for the State to provide solace to the survivors of the family under bereavement, whose plight is writ large, by giving appointment to the widowed daughter-in-law.

26. Thus, the postulations judicially adumbrated, as can be gleaned from the aforementioned precedent laws, verily convey the quintessence of the content and expanse thereof so far as the given factual situation is concerned. Needless it is, therefore, to burden this adjudication by referring to other pronouncements on the issue, more particularly, in light of the judgment rendered by the Division Bench of this Hon'ble Court in the case of **Sushila Devi (supra)** having been upheld, as mentioned above, by the Hon'ble Supreme Court.

27. In the given factual matrix and while taking into due consideration the judgments rendered by the Hon'ble Division Bench as well as by the learned Single Bench in the cases of **Sushila Devi (supra)** cited by learned counsel for the appellant and also the judgments rendered in the case of **Smt. Pinki (supra)** by the Hon'ble Division Bench as well as the learned Single Bench, this Court is of the firm opinion that the construction of the definition of 'dependent' in the Rules of 1996



not to include the widowed daughter-in-law in the present perspective is an incomplete proposition.

28. This Court has also kept into consideration that the Rules themselves have been amended vide the Rajasthan Compassionate Appointment of Dependants of Deceased Government Servants (Amendment) Rules, 2021 by the respondents to expand the definition of 'dependents' in the Rules of 1996 to give a larger role to the daughters of the family, and thus, when it is envisaged that the legislative intention by including the larger definition and expanding the definition of the dependents by adding 'married daughter' in the original definition of 'dependent', which further gives strength and fortifies the inclusion being read down in this judgment.

29. The issue taken by the State regarding the delay cannot be sustained in the eye of law. The mere technical exclusion of the appellant on the ground of delay of three years cannot hamper the rights of the appellant which were continuously accruing and there was sufficient explanation for the same to be in the continued proposition whereby the cause of action remained alive as the death happened in 2013 and the contest for the retiral benefits and other accruing issues remained alive upto the year 2017 whereas the writ petition itself was preferred in the year 2018.

30. Thus, in light of the aforesaid observations, this Court following the judgment rendered by the Division Bench of this Hon'ble Court in the case of **Sushila Devi (supra)** and finding a clear distinction between the cases cited by the respondents, **allows** the present special appeal, while quashing and setting



aside the impugned order dated 28.09.2022 passed by the learned Single Judge of this Hon'ble Court. The respondents are accordingly, directed to grant compassionate appointment to the appellant within a period of three months from the date of receipt of a certified copy of this judgment. All the benefits of such compassionate appointment to the appellant shall operate prospectively.



(RAJENDRA PRAKASH SONI),J (DR.PUSHPENDRA SINGH BHATI),J

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