

Smt. Saroj Devi Vs. State of U. P. and Others

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Court : Allahabad

Decided On : May-21-1999

Reported in : 1999(3)AWC2443; (1999)2UPLBEC1404

Judge : M. Katju, J.

Acts : Uttar Pradesh Recruitment of Dependants of Government Servants (Dying-in-Harness) Rules, 1974 - Rule 2(3)

Appeal No. : Civil Misc. Writ Petition No. 3763 of 1999

Appellant : Smt. Saroj Devi

Respondent : State of U. P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Bhoopendra Nath Singh, Adv.

Judgement :

M. Katju, J.

1. Heard learned counsel for the petitioner and learned standing counsel.
2. The petitioner is a widow with four small children. The petitioner's husband died in harness on 4.5.1998 and she has claimed appointment under Dying-in-Harness Rules.

3. Learned standing counsel has submitted that no appointment under Dying-in-Harness Rules can be given to the petitioner in view of the decision of the Supreme Court in *State of Haryana v. Rani Devi*, JT 1996 (6) SC 646. He has invited our attention to paragraph 8 of the said judgment in which it has been held that the casual or ad hoc appointee cannot be given benefit of the G.O. dated 31.10.1985. I have carefully perused the aforesaid decision and, in my opinion, it is distinguishable. The petitioner's husband was not a purely casual or ad hoc employee. He was a temporary appointee who had worked against a substantive vacancy from 18.4.1987 and had worked for more than 11 years. The decision of the Supreme Court applied to a case of a casual or ad hoc appointee, e.g., a person appointed for a period of one month who died after 20 days of appointment. In case of such a casual appointee, obviously the benefit of Dying-in-Harness Rules cannot be given. Hence the ratio of the decision of the Supreme Court cannot be applied in this case as the petitioner's husband worked for over 11 years.

4. Moreover in the U. P. Recruitment of Dependents of Government Servant. Dying-in-Harness Rules, it has been mentioned in Rule 2 (3) that the benefit of the Dying-in-Harness Rules may be given to the dependent where the deceased had worked for at least three years. Since the petitioner's husband worked for over 11 years, the petitioner is entitled to the benefit of the Dying-in-Harness Rules.

5. In the circumstances the petition is allowed. The respondents are directed to give appointment to the petitioner commensurate to her qualifications within one month of production of a certified copy of this order in accordance with law.