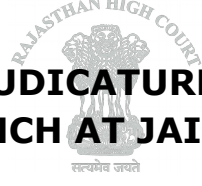




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 16441/2022

Lal Singh S/o Guman Singh, Aged About 64 Years, R/o Village Mollyasi, Tehsil Dhodh District Sikar (Raj)

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of Education, Secretariat, Jaipur (Raj.)
2. Additional Director, State Insurance And Provident Fund Department, State Of Rajasthan, Beema Bhavan, Collectorate, Jaipur (Raj)
3. District Education Officer (Primary Education), Jodhpur (Raj.)
4. Principal, Govt. Senior Secondary School, Sewala, Block Dhawa, Dist. Jodhpur (Raj.)
5. State Bank Of India, Through Manager, Village Kakra, Tehsil Nokha, Dist. Bikaner (Raj.)
6. Vinod Kanwar D/o Mool Singh W/o Sandeep Singh, R/o Village Kurjadi, Post Udsar, Tehsil Nokha, Dist. Bikaner (Raj.)

----Respondents

Connected With

S.B. Civil Writ Petition No. 17263/2023

Vinod Kanwar D/o Mool Singh W/o Late Shri Sandeep Singh, R/o Vpo Molyasi Tehsil Dhodh, District Sikar Currently Residing At Village Kurjadi, Post Udsar, Tehsil Nokha, Dist. Bikaner (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of Education, Secretariat, Jaipur (Raj.)
2. State Of Rajasthan, Through Principal Secretary, Department Of Personnel, Main Building, Government Secretariat, Jaipur, Rajasthan.
3. Additional Director, State Insurance And Provident Fund Department, State Of Rajasthan, Beema Bhavan, Collectorate, Jaipur (Raj.)





4. District Education Officer, Headquarters Primary Education, Goshala Road, Ajit Colony, Jodhpur (Raj.)
5. Principal, Government Senior Secondary School, Sewala, Block Dhava, District Jodhpur (Raj.)

-----Respondents

For Petitioner(s) in : Mr. Tanmay Dhand
SB CWP
No.16441/2022
For Petitioner(s) in : Mr. Pranav Pareek for
SB CWP : Mr. Anoop Pareek
No.17263/2023
For Respondent(s) : Mr. Gopal Krishan, AGC
For Respondent(s) : Mr. Vikram Jain
No.5 in SB CWP No.
16441/2022

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Judgment / Order

22/10/2024

Since, the issue involved in both the writ petitions is common, i.e., entitlement of Smt. Vinod Kanwar-wife of late Sandeep Singh (deceased government employee) for compassionate appointment, these have been heard together and are being decided vide this common order.

Although, in the SB Civil Writ Petition No.16441/2022 filed by Lal Singh-father of the deceased government employee, there are prayers other than related to the compassionate appointment; but, learned counsel for the petitioner confines this writ petition to the extent of disentitlement of the respondent No.6-wife of the deceased government employee for compassionate appointment.

The relevant facts in brief are that Shri Sandeep Singh died on 06.08.2022 while working as Teacher Grade-III (Level II) in a Government school. Alleging that his son was abetted to commit



suicide by his wife and her family members, the petitioner-father of the deceased government employee lodged an FIR No.0126/2022 at Police Station Jhanwar, Jodhpur City West. Stating that on account of pendency of criminal investigation in the aforesaid FIR, the respondent No.6 is not entitled for compassionate appointment on account of death of her husband, this writ petition is filed.

The SB Civil Writ Petition No.17263/2023 has been filed by wife of the deceased government employee praying therein for a direction to the respondents to extend her compassionate appointment.

Indisputably, the investigating agency has, after investigation, submitted the Negative Final Report No.1 dated 31.12.2022 in the FIR No.0126/2022 finding the allegations to be false and based upon mere suspicion and a protest petition filed thereagainst by father of the deceased government employee is pending consideration.

Learned counsel for the petitioner-father of the deceased government employee, would submit that in view of pendency of the aforesaid protest petition filed by him, the respondent No.6 is not entitled for compassionate appointment. He, therefore, prays that the writ petition be allowed and the respondents be directed not to extend her appointment on compassionate basis till she is fully exonerated in the criminal proceeding.

Per contra, learned counsel for the respondent No.6 would submit that since, the investigating agency has already submitted the negative final report finding the allegations levelled in the FIR lodged by the father of the deceased government employee to be



false, mere pendency of protest petition on his behest does not come in way of her compassionate appointment. He submits that a coordinate Bench of this Court has, in the case of **Smt. Narbada versus State of Rajasthan & Ors.:SB Civil Writ Petition No.14061/2019** involving identical controversy, vide order dated 12.12.2022, held that mere pendency of a protest petition does not come in way of compassionate appointment. He, therefore, prays that the writ petition filed by father of the deceased government employee be dismissed and the writ petition filed by her be allowed.

Learned State Counsel submits that since, wife of the deceased government employee did not submit the affidavit(s) in the prescribed proforma as per Rule 5 of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996 (for brevity "the Rules of 1996"), she was not extended compassionate appointment.

Heard. Considered.

This Court finds no substance in the writ petition filed by father of the deceased government employee. Indisputably, finding the allegations levelled by him against the respondent No.6 and her family members in the FIR No.0126/2022 to be false and based upon mere suspicion, negative final report has been filed by the investigating agency way back on 31.12.2022 and mere pendency of a protest petition at the behest of the complainant does not operate as an impediment for grant of compassionate appointment as held by a coordinate Bench of this Court in the case of **Smt. Narbada** (supra), which involves almost identical facts. In that case, the compassionate appointment to the



respondent No.4 was assailed by his grand-mother on account that an FIR was lodged concerning death of her son-the deceased government employee wherein, serious allegations were levelled against family members including the respondent No.4, the son of the deceased government employee. The police after investigating did not find the allegations substantiated and submitted a negative final report. Negating the challenge to the compassionate appointment extended to the respondent No.4 on account of death of his father, it was held by the coordinate Bench that pendency of protest petition cannot be considered as an impediment for grant of appointment to the respondent No.4 being the legal heir of the deceased government employee.

Further, as is apparent from the order dated 16.03.2023 passed by the official respondents, wife of the deceased government employee has not been found to be entitled for compassionate appointment not on account of pendency of the protest petition; but, for not furnishing the affidavit(s) in terms of Rule 5 of the Rules of 1996.

Insofar as the objection raised by the official respondents is concerned, learned counsel for the wife of the deceased government employee submits that the official respondents be directed to extend her compassionate appointment in case, she files the requisite affidavit(s) in terms of Rule 5 of the Rules of 1996.

Learned State Counsel has no objection to the aforesaid prayer.

In view of the aforesaid discussion, while, the SB Civil Writ Petition No.16441/2022 preferred by the father of the deceased



government employee is dismissed, the SB Civil Writ Petition No.17263/2023 filed by wife of the deceased government employee is disposed of in following term(s):-

The official respondents would extend her appointment on compassionate basis within a period of twelve weeks from the date of submission of affidavit(s) by her in terms of Rule 5 of the Rules of 1996.

Pending application(s), if any, also stands disposed of.

(MAHENDAR KUMAR GOYAL),J

Manish/121-122