



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH
DATED THIS THE 9TH DAY OF SEPTEMBER, 2024
PRESENT
THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL
WRIT PETITION NO.105264 OF 2024 (S-KAT)**

BETWEEN:

SMT. PRIYANKA HALAMANI
W/O LATE PRAVEEN HALAMANI
AGE. 27 YEARS, OCC. HOUSEHOLD,
R/O. C N PATTANASHETTI,
SALA ONI, NEAR GANESH TEMPLE,
GULEDGUDDA, BAGALKOT-587203.

...PETITIONER

(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
RURAL DRINKING WATER AND SANITATION
DEPARTMENT,
GOVERNMENT OF KARNATAKA
1 FLOOR, 'E' BLOCK, KHB BUILDING, KAVERI BHAVAN,
K.G ROAD, BANGALORE-560009
R/BY. ITS ADDITIONAL CHIEF SECRETARY
2. THE COMMISSIONER
RURAL DRINKING WATER AND
SANITATION DEPARTMENT,
GOVERNMENT OF KARNATAKA,
1 FLOOR, 'E' BLOCK, KHB BUILDING,
KAVERI BHAVAN,
K.G. ROAD, BANGALORE-560009.
3. THE SUPERINTENDING ENGINEER
RURAL DRINKING WATER AND SANITATION CIRCLE,
NEAR DURGA COLONY, HALIYAL ROAD,
DHARWAD-580001.

...RESPONDENTS

(BY SRI. G.K. HIREGOUDAR, GOVERNMENT ADVOCATE)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO, READ DOWN THE PROVISIONS OF RULE 2 OF THE KARNATAKA CIVIL SERVICES (APPOINTMENT ON COMPASSIONATE GROUNDS) RULES, 1996 SO AS TO INCLUDE WIDOWED DAUGHTER-IN-LAW IN THE DEFINITION. (II) ISSUE ORDER QUASHING THE IMPUGNED ORDER PASSED BY THE KSAT, BELAGAVI IN APPLICATION NO.10005/2024 DATED 04/01/2024 VIDE ANNEXURE-B & ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT)

This petition seeks to call in question the Service Tribunal's order dated 04.01.2024 whereby petitioner's Application No.10005/2024 has been negatived. The grievance of the petitioner before the Tribunal was the non-consideration of her candidature for compassionate appointment.

2. Learned counsel appearing for the petitioner in his usual vehemence submits that the definition of 'family' given under Rule 2(b)(ii) of the Karnataka Civil Services (Appointment on Compassionate Grounds) (Amendment)



Rules, 2021, in order to be saved from the vice of arbitrariness has to be construed to include daughter-in-law of the family and if that is done, the petitioner would get employment on compassionate ground. In support of this, he presses into service a Full Bench decision of Allahabad High Court in ***U.P. Power Corporation Ltd., vs. Urmila Devi***¹.

3. Learned Government Advocate appearing for the Official Respondents passionately resists the petition contending that the doctrine of separation of power is recognized as a Basic Feature of the Constitution vide ***Indira Nehru Gandhi Vs. Shri Raj Narayan***²; the rules in question being made by the delegate of the legislature need to be shown due deference by the co-ordinate organs of the State namely the judiciary; the Rule Maker in his wisdom has not included daughter-in-law in the definition of 'family' consciously; that being the position adding daughter-in-law to the definition would virtually

¹ 2011 SCC OnLine All 152, para-8

² AIR 1975 SC 2299



amount to manhandling the law which is impermissible. In support of his contention, he relies upon a Co-Ordinate Bench decision in **Pallavi G.M. vs. Managing Director, Karnataka Power Transmission Company Limited (KPTCL) Cauvery Bhavan and others**³.

4. Having heard the learned counsel for the parties and having perused the petition papers, we decline indulgence in the matter broadly agreeing with the submission of learned Government Advocate. The stand of the Official Respondents is adumbrated by the observations in **Pallavi supra** wherein paragraph No.4 reads as under:

"4. It hardly needs to be stated that the appointment on compassionate ground is an exception to the general rule of equality in public employment enacted in Articles 14 and 16 of the Constitution vide THE STATE OF WEST BENGAL VS. DEBABRATA TIWARI AND OTHERS, 2023 SCC OnLine SC 219 and therefore, the Rules providing for such appointment need to be construed strictly. Courts through the process of interpretation cannot expand the contours of a statutory definition. When the Rule Maker in so many words has specified the persons as being the members of family of an employee, we

³ 2023 SCC OnLine KAR 61



cannot add one to or delete one from the definition of family. An argument to the contrary if accepted, would amount to rewriting the Rule, and therefore, cannot be countenanced."

5. The Alhabad High Court decision in ***U.P.Power Corporation Ltd., (supra)*** at paragraph No.8 reads as under;

8. Upon applicability of aforesaid judgment, it is apparent that petitioner's application for compassionate appointment of the fair price shop in question has been rejected only on the ground that she does not come within the definition of 'family as per paragraph IV(X) of the government order dated 5th August, 2019 this aspect of the matter having already been covered by the judgment of this Court indicated herein above, the ground for rejection of petitioner's application for compassionate appointment is clearly unsustainable."

We are in respectful difference with the above decision which has not adverted to the doctrine of separation powers, which is treated as a basic feature of the Constitution vide **Indira Nehru Gandhi** *supra*. The law maker as a matter of policy has framed the definition of 'family' to include specific relatives of the employee dying in harness and the daughter-in-law is not one of them. It



is not within the domain of Courts to expand or constrict a statutory definition.

6. The submission of the learned counsel for the petitioner that the court should invoke the *doctrine of reading down* and thereby add daughter-in-law to the definition of family for the purpose of staking claim for compassionate appointment, does not merit acceptance and reasons for this are not for to seek. Ordinarily this doctrine is invoked to trim the contours of law which otherwise suffers from the vice of over inclusiveness or such other infirmity and therefore is falling foul of a higher legal norm such as the parent statute, the constitution, etc. The Courts do not readily resort to this doctrine in the absence of challenge to the legal provision on some constitutional/statutory grounds. Admittedly, there is no challenge to the definition clause which gives the meaning of family for the purpose of extant Rules. No Rule or Ruling nor *opinio juris* is cited at the Bar to support the



preposition that by the process of reading down, the scope of an instrument of law can be expanded.

7. The doctrine of reading down may be invoked and applied if the statute is silent, ambiguous or admits more than one interpretation. But where it is express, and clearly mandates to take certain action or to mean certain things, the function of the Court is to interpret it plainly. In the absence of challenge, ordinarily courts do not permit the invocation of this doctrine to alter the policy content of a statute. It is relevant to see what the Apex Court observed in **Minerva Mills Vs. UOI**⁴

"64. ... The device of reading down is not to be resorted to in order to save the susceptibilities of the law makers, nor indeed to imagine a law of one's liking to have been passed. One must at least take the Parliament at its word ...

65. ... If the Parliament has manifested a clear intention to exercise an unlimited power, it is impermissible to read down the amplitude of that power so as to make it limited. The principle of reading down cannot be invoked or applied in opposition to the clear intention of the legislature ..."

⁴ AIR 1980 SC 1789



The above observations broadly support our view that the doctrine is not invocable in the case at hand.

8. For the purpose of compassionate appointment, who all can lay a claim, is a matter of public policy that falls within the domain of law-maker, and the Courts being his coordinate branch, cannot run a race of opinions with him. A greater wisdom lies in confining to the conventional limits of judicial process, leaving the legislative one to the other coordinate branch, than otherwise. More is not necessary to specify.

In the above circumstance, this writ petition is liable to be rejected and accordingly it is, costs having been made easy.

We appreciate both the learned advocate appearing for the petitioner Sri Shivaraj S.Balloli and the learned Government Advocate Sri G.K. Hiregoudar representing the official respondents for the way they conducted this case with ingenuity and passion. The Registry shall share a copy of this order, if they apply for.



This Court places on record its deep appreciation for the able research & assistance rendered by its official law clerk cum Research Assistant Mr. Raghunandan K.S.

Sd/-
(KRISHNA S.DIXIT)
JUDGE

Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE

SSP
LIST NO.: 1 SL NO.: 34