

## Nagar Nigam and Another Vs State of U.P. and Others

**Court:** Allahabad High Court

**Date of Decision:** Sept. 21, 2011

**Hon'ble Judges:** Dinesh Gupta, J

**Bench:** Single Bench

**Final Decision:** Dismissed

### Judgement

Dinesh Gupta, J.

The husband of Ms. Aneeta Mishra (the contesting Respondent) was appointed as daily wager on 16.8.1988 in Nagar Nigam, Allahabad (the Nigam). He was murdered on 7.4.1997. The contesting Respondent was appointed as daily wager from 23.7.1997 for a

period of three months in the Nigam. Thereafter, her engagement was not extended.

2. The contesting Respondent filed writ petition No. 5020 of 1998. It was disposed of on 28.8.1998 with a direction to consider whether the

husband of the contesting Respondent was working on regular vacancy or not and in case he was working on regular vacancy, then the case of the

contesting Respondent for compassionate appointment may be considered in the light of the judgment.

3. The Nigam rejected the case of the contesting Respondent on 24.5.2003. She filed writ petition No. 36609 of 2003. It was allowed on

7.2.2005. Hence, the present appeal by the Nigam.

4. We have heard counsel for the parties.

5. The counsel for the Appellant submits that:

~ The husband of the contesting Respondent was a daily wager;

~ The UP Recruitment of Dependent of Government Servant Dying in Harness Rules, 1974 (the Rules) are not applicable;

~ The contesting Respondent is not entitled for appointment under the Rules.

6. The counsel for the contesting Respondent submits that:

~ The question whether the contesting Respondent can be appointed on compassionate ground or not was gone into in the writ petition No.

5020 of 1998 where a direction has been issued to consider whether the husband of the contesting Respondent was working in regular vacancy or

not; and

~ In case he was working in regular vacancy, then the the contesting Respondent may be considered for regularisation;

~ This question is not open for reconsideration.

7. The submissions raised by the counsel for the parties require serious consideration. However, the following facts are relevant:

~ (i) The deceased has left a minor child and six unmarried sisters;

~ (ii) In pursuance of the order of the single Judge the contesting Respondent has also been appointed on daily wage on 6.3.2006 and

thereafter has been issued regular appointment on 5.9.2007.

8. In view of the above mentioned circumstances, we decline to decide the submissions raised by the parties. The appeal is accordingly dismissed.