



2026:UHC:727

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><b><u>WPSS/862/2023</u></b> <b><u>Hon'ble Manoj Kumar Tiwari, J.</u></b> Mr. Akshay Joshi, Advocate for the petitioner. Mr. Rajeev Singh Bisht, Additional Chief Standing Counsel for State of Uttarakhand.</p> <p>2. Petitioner's request for compassionate appointment on account of death of her father was turned down only on the ground that she is a 'married daughter'. Thus feeling aggrieved, petitioner has approached this Court, challenging the order dated 08.05.2023, passed by Additional Director, Animal Husbandry Department, Kumaon Region, Haldwani.</p> <p>3. Learned counsel for petitioner has relied upon a judgment rendered by Full Bench of this Court in SPA No. 187 of 2017, wherein it was held that non inclusion of married daughter in the definition of 'family' under Rule 2(c) of the Dying in Harness Rules, 1974 is discriminatory and violative of Articles 14, 15 and 16 of Constitution of India.</p> <p>4. Learned counsel for the petitioner further submits that reasoning given in the impugned order that 'married daughter' was included in the definition of family as given in the Rules only w.e.f. 04.09.2019 is legally not sustainable as judgment rendered by a constitutional Court is always retrospective, therefore, according to him, it will make no difference as to whether the</p>



			<p>amendment was incorporated in the applicable rules in September, 2019 only.</p> <p>5. Learned State Counsel, however, submits that petitioner’s father died on 04.05.2016, therefore, her case would be governed by the Rules as were applicable at the time of death of her father.</p> <p>6. This Court do not find substance in the submission made by learned State Counsel.</p> <p>7. Law is well settled that judgment rendered by a constitutional Court is always retrospective as it merely declares a law and does not make the law.</p> <p>8. Thus the reasoning given is unsustainable in view of judgment rendered by Hon’ble Supreme Court in the case Kanishk Sinha and Ors. vs. The State of West Bengal and Ors. (27.02.2025 - SC) : MANU/SC/0271/2025. Relevant extract of para 3 of the said judgment is extracted below:</p> <p>“3..... Now the law of prospective and retrospective operation is absolutely clear. Whereas a law made by the legislature is always prospective in nature unless it has been specifically stated in the statute itself about its retrospective operation, the reverse is true for the law which is laid down by a Constitutional Court, or law as it is interpreted by the Court. The judgment of the Court will always be retrospective in nature unless the judgment itself specifically states that the judgment will operate prospectively. The prospective operation of a judgment is normally done to avoid any unnecessary burden to persons or to avoid undue hardships to those who had bonafidely done something with the understanding of the law as it existed at the relevant point of time. Further, it is done not to unsettle something which has long been settled, as that would cause injustice to many.</p>
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9. The impugned order is therefore set aside. The writ petition is allowed and the matter is remitted back to the competent authority to re-examine the claim of petitioner for compassionate appointment in terms of the judgment rendered by Full Bench of this Court in Special Appeal No. 187 of 2017. However, it shall be open to the competent authority to examine other aspects, including the question of dependence of the petitioner on her father at the time of his death.

**(Manoj Kumar Tiwari, J.)**  
10.02.2026

Mahinder/