

Pushpendra Singh Vs. Regional Manager, U.P.S.R.T.C., Aligarh and Another

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Court : Allahabad

Decided On : Dec-08-1999

Reported in : 2000(1)AWC442; [2000(84)FLR490]; (2000)1UPLBEC415

Judge : N.K. Mitra, C.J. and;S.R. Singh, J.

Acts : U.P. (Recruitment of Government Servants) Dying-in-Harness Rules, 1974;

[Constitution of India](#) - Article 14

Appeal No. : Special Appeal No. 1265 of 1999

Appellant : Pushpendra Singh

Respondent : Regional Manager, U.P.S.R.T.C., Aligarh and Another

Advocate for Def. : Samir Sharma, Adv.

Advocate for Pet/Ap. : Dhan Prakash, Adv.

Judgement :

N.K. Mitra, C.J. and S. R. Singh, JJ.

1. Appeal on hand stems from the Judgment and order dated 4.11.99 passed In Writ Petition No. 46695 of 1999 thereby dismissing the writ petition in limine. The facts constitutive of the grievances of the appellant is that the appellant's father who was serving In the U. P. State Road Transport Corporation, died in harness on 21.8.1984. At the time of the death of his father, the appellant was minor and

he attained majority on 12.12.98. He applied for compassionate appointment on 23.2.99 permissible under the provisions of the U. P. (Recruitment of Government Servants) Dying-in-Harness Rules, 1974. The claim of the appellant for compassionate employment under the Dying-in-Harness Rules met the fate of rejection at the end of Regional Manager, U. P. State Road Transport Corporation. Aligarh vide order dated 30.6.1999 premised on the ground that the application was not moved within five years of the death of the employee.

2. The learned single Judge dismissed the writ petition. The quintessence of the order dismissing the writ petition is that after such a long time of death of the deceased, the right of the claimant stood extinguished.

3. We have heard Sri Dhan Prakash, learned counsel for the appellant and Sri Samir Sharma. counsel appearing for the respondent No. 2.

4. The rule of compassionate appointment is an exception to the general mode of appointment strictly on the basis of open invitation of applications on merits. It is born of pure humanitarian consideration and interest of justice, reckoning into consideration the fact that unless some source of sustenance is provided, the family would not be able to fend for itself on its own. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis'-Umesh Kumar Nagpal v. State of Haryana and others, (1994) 4 SCC 138. In the said case, the Supreme Court has held the view that mere death of an employee in harness does not entitle a family to get employment as of right irrespective of 'the financial condition of the family of the deceased'. 'The compassionate appointment', it has further been held, 'cannot be granted after a lapse of reasonable period which must be specified in the rules. The consideration for such employment is not a vested right, which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole bread winner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.'

5. In Jagdish Prasad v. State of Haryana, 1996 (1) SLR 7, the question of appointment on compassionate ground to an applicant who was four years old at

the time when his father, an ex-employee died in harness came up for consideration before the Apex Court. It was contended that since the appellant therein was minor when the father died in harness, the compassionate circumstances having continued till the date he made an application for appointment, he was entitled to be appointed on compassionate ground. The contention was met with disapproval by the Supreme Court in the following words.

'The very object of appointment of a dependent of the deceased employees who the in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family. Since the death occurred way back in 1971, in which year, the appellant was four years old, it cannot be said that he is entitled to be appointed after he attained majority long thereafter. In other words, if that contention is accepted. It amounts to another mode of recruitment of the dependent of a deceased Government servant which cannot have been encouraged, de hors the recruitment rules.'

6. The view taken in Haryana State Electricity Board v. Naresh Anwar, 1996 (2) SLR 11, reliance on which has been placed by Sri Dhan Prakash during the course of his arguments is not in any manner disparate with the view taken by the Apex Court in the cases referred to supra. The observations made in para 11 of the report that if a representation is made, the concerned authority, namely, the Haryana State Electricity Board would consider the same with such benignity as the applicant therein might deserve in the facts of the case, was not a declaration of law extending coverage of Article 141 of the Constitution. The impugned decisions do not suffer from the blemish of any infirmity. As a result of foregoing discussion, the appeal is bereft of merits. However, by reason of reliance upon the said observations as also upon the rules which envisage consideration of an application for compassionate appointment made even after five years of the death of the employee if the circumstances so warrant, the appeal is disposed of post-fixed with the observation that in case an application is moved, the respondents may reckon with the feasibility of a temporary appointment if the family is still reeling under financial strains.