

Ravi Karan Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Feb-12-1999

Reported in : 1999(2)AWC976; (1999)3UPLBEC2263

Judge : M. Katju and;Kamal Kishore, JJ.

Acts : Uttar Pradesh Temporary Government Servant (Termination of Services) Rules, 1975 - Rules 3 and 4; Dying-in-Harness Rules

Appeal No. : C.M.W.P. No. 39127 of 1997

Appellant : Ravi Karan Singh

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : B.B. Paul and ;M.K. Rajvanshi, Advs.

Judgement :

M. Katju and Kamal Kishore,JJ.

1. This petition has come up before us on a reference made by the learned single Judge by his order dated 19.12.1997. The point involved is very simple, that is, whether an appointment under the Dying-in-Harness Rules is a permanent appointment or a temporary appointment. According to the learned single Judge,

this Court had earlier held that an appointment under Dying-in-Harness Rules is a permanent appointment vide *Budhi Sagar Dubey v. D. I. O. S.*, 1993 ESC 21 ; *Gulab Yadau u. State of U. P. and others*, 1991 (2) VPLBEC 995 and *Dhirendra Pratap Singh v. D. I. O. S. and others*, 1991 (1) UPLBEC 427. The learned single Judge who passed the referring order dated 19.12.1997 disagreed with the abovementioned decisions and hence has referred the matter to a larger Bench.

2. In our opinion, an appointment under the Dying-in-Harness Rules has to be treated as a permanent appointment otherwise if such appointment is treated to be a temporary appointment, then it will follow that soon after the appointment, the service can be terminated and this will nullify the very purpose of the Dying-in-Harness Rules because such appointment is intended to provide immediate relief to the family on the sudden death of the bread earner. We, therefore, hold that the appointment under Dying-in -Harness Rules is a permanent appointment and not a temporary appointment, and hence the provisions of U. P. Temporary Government Servant (Termination of Services) Rules. 1975 will not apply to such appointments.

3. The petition is disposed of accordingly.