

**Ram Chandra Vs. State of U.P. and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/478197](http://sooperkanoon.com/478197)

**Court :** Allahabad

**Decided On :** Jan-02-2008

**Reported in :** 2008(2)AWC1611

**Judge :** U.K. Dhaon and ;Devi Prasad Singh, JJ.

**Appellant :** Ram Chandra

**Respondent :** State of U.P. and ors.

**Advocate for Pet/Ap. :** Sri. D. R. Shukla

**Disposition :** Petition allowed

**Judgement :**

ORDER

**U.K. Dhaon and Devi Prasad Singh, JJ.**

1. Heard Sri D. R. Shukla learned Counsel for the petitioner and the learned standing counsel who has put In appearance on behalf of the opposite parties 1, 2, 4 and 5.

2. The petitioner has filed the instant writ petition against the judgment and order dated 14.3.1996, passed by the State Public Services Tribunal, Lucknow and the order dated 10.12.1985 by which his services were terminated. The brief facts of the case are that father of the petitioner late Sri Ram Dhiraj was working as Class

IV employee in Rajkiya Vastukala Mahavidyalaya, Lucknow. Father of the petitioner expired while he was in service and on an application moved by the petitioner he was appointed on the post of chowkidar by the order dated 19.3.1983 under the U.P. Recruitment of Dependants of Government Servants (Dying-in-Harness) Rules, 1974. By the impugned order dated 10.12.1985, the services of the petitioner were terminated by the opposite party No. 5. The petitioner being aggrieved by the impugned termination order dated 10.12.1985, filed a claim petition before the State Public Services Tribunal, Lucknow which was registered as Claim Petition No. 87/1/1986. The said claim petition was contested by the opposite parties and it was dismissed by the Judgment and order dated 14.3.1996.

3. The learned Counsel for the petitioner submits that the appointment of the petitioner was made against a permanent post under the provisions of the U.P. Recruitment of Dependants of Government Servants (Dying-in-Harness) Rules, 1974 and as such the provisions of U.P. Temporary Government Servants (Termination of Service) Rules, 1975 were not applicable and the impugned termination order is arbitrary and illegal. Learned Counsel for the petitioner has relied upon the decision of this Court in Ravi Karan Singh v. State of U.P. and Ors. (1999) 3 UPLBEC 2263 : 1999 (2) AWC 976.

4. The learned standing counsel appearing on behalf of the opposite parties submits that there is no illegality in the impugned termination order dated 10.12.1985 as the appointment order itself reveals that the petitioner was appointed on temporary basis. He further submits that there is no illegality in the impugned Judgment and order passed by the State Public Services Tribunal. He further submits that the work and conduct of the petitioner was not satisfactory and in pursuance of the provisions of the U.P. Temporary Government Servants (Termination of Service) Rules, 1975, the impugned termination order dated 10.12.1985 was passed.

5. We have considered the submissions made by the learned Counsel for the parties and gone through the record.

It is admitted case of the parties that father of the petitioner, late Sri Ram Dhiraj was working as Class IV employee in Rajkiya Vastukala Mahavidyalaya, Lucknow,

who expired while he was in service. The petitioner thereafter moved an application for appointment on compassionate ground under the provisions of the U.P. Recruitment of Dependents of Government Servants (Dying-in-Harness) Rules, 1974. It is admitted case of the parties that the petitioner was appointed by the order dated 19.3.1983 on a Class IV post. It is settled law that the appointments made under the provisions of the U.P. Recruitment of Dependents of Government Servants (Dying-in-Harness) Rules, 1974 are of permanent nature. Since appointment of the petitioner was of permanent nature, the provisions of U.P. Temporary Government Servants (Termination of Service) Rules, 1975 were not applicable. The impugned termination order dated 10.12.1985 is legally not sustainable.

6. In the result, the writ petition succeeds and is hereby allowed. The impugned judgment and order dated 14.3.1996, passed by the State Public Services Tribunal, Lucknow is hereby set aside and the impugned order dated 10.12.1985, a copy of which has been annexed as Annexure-2 to the writ petition is hereby quashed. The petitioner shall be entitled for all consequential benefits including 25% salary from the date of the impugned termination order dated 10.12.1985 was passed. It will also be open for the opposite parties to proceed afresh treating the petitioner as a permanent employee.