

Dharmendra Singh Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Apr-15-2005

Reported in : 2005(2)ESC1423

Judge : A.P. Sahi, J.

Appeal No. : C.M.W.P. No. 1635 of 2000

Appellant : Dharmendra Singh

Respondent : State of U.P. and ors.

Advocate for Def. : Sarita Singh, CSC

Advocate for Pet/Ap. : Manu Saxena, Adv.

Judgement :

A.P. Sahi, J.

1. Heard Sri Manu Saxena, learned Counsel for the petitioner and learned Standing Counsel on behalf of the respondents.

2. The petitioner's father died in harness on 8.4.1984, when the petitioner was still a minor. The petitioner's mother did not opt for compassionate appointment at that time for reasons stated in para 4 of the writ petition, which states that since she was illiterate and could barely read or write, therefore, no claim was made by her.

3. The petitioner has admittedly, attained the age of 18 years. After 14 years of the death of the father, in 1998, a representation was moved requesting the respondents to provide the appointment to the petitioner on compassionate basis.

4. The respondents have rejected the request of the petitioner on the ground that representation for appointment could not be entertained, as it was time barred in terms of the G.O. dated 13.6.1998. It has been further stated that the petitioner's request for relaxation of the applicability of the rule to entertain the petitioner's application was also rejected.

5. Learned Counsel for the petitioner has contended that the said order rejecting the request of the petitioner for relaxation of the time to entertain the application has not been served upon him till the date.

6. Learned Counsel for the respondents has stated that the said order was served on the petitioner as reported by Police Station Syana, district Bulandshahr.

7. A perusal of the facts narrated herein above, indicates that the petitioner has admittedly put forward his claim after 14 years. Learned Counsel for the petitioner has relied on two decisions of the Court. The first decision is in the case of Manoj Kumar Saxena v. District Magistrate, Bareilly and Ors., 2000 (2) ESC 967 (All). The second decision is in the case of Pushpendra Singh v. Regional Manager, U.P.S.R.T.C. Aligarh and Anr., 2000 (1) ESC 448 (All).

8. A perusal of the said judgments would clearly indicate that a reference has been made to the decision of the apex Court in this regard, and while considering the claim for relaxation, the authority concerned, has to take into consideration the various factors that may be required to be gone into, while judging financial status of the family. One such factor is, as explained in a Division Bench judgment cited on behalf of the petitioner, that the family is still continuing to face the financial crises.

9. In view of the aforesaid facts and circumstances of the case, it is evident that the aforesaid consideration should also have been met by the respondents.

10. In view of this, it shall be open to the petitioner to approach the respondent No. 1, with a request explaining the financial status of the family and in case such a request is made, the same shall be considered sympathetically by the respondent No. 1 in accordance with law.

11. The writ petition is accordingly disposed of.

12. No order as to cost.

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