

Mohammad Ishaque Vs. State of U.P. and ors.

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SooperKanoon Citation : sooperkanoon.com/486200

Court : Allahabad

Decided On : May-23-2001

Reported in : (2001)2UPLBEC1750

Judge : Ashok Bhushan, J.

Acts : Uttar Pradesh Collection Amin Service Rules, 1974

Appeal No. : Civil Misc. Writ Petition No. 9209 of 1999

Appellant : Mohammad Ishaque

Respondent : State of U.P. and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : B.S. Pandey, Adv.

Judgement :

Ashok Bhushan, J.

1. Heard Counsel for the petitioner and the learned Standing Counsel.

2. By means of this writ petition the petitioner has prayed for quashing the order dated 5.2.1999 by which the claim of the petitioner for appointment on the post of regular Collection Peon in accordance with U.P. Collection Amin Service Rules, 1974 as amended from time to time has been rejected on the ground that he is

more than 45 years of age. The petitioner's has prayed for a mandamus directing the respondents to give the regular selection to the petitioner with consequential benefits.

3. Petitioner's case as set out in the writ petition are that he was appointed as Seasonal Collection Peon on 7.3.1969, he thereafter submitted several representation claiming that he should be confirmed a regular Collection Peon. The petitioner referred appointments of several junior persons on regular basis in his writ petition. Petitioner further states that he has made several representation for the purposes but nothing was done. Petitioner further stated that a selection committee also considered him on 9.8.1984 and the committee reported that petitioner is at serial No. 9 of the seniority list and he is entitled to be regularised.

4. Petitioner filed writ petition No. 32927 of 1998 praying for direction to the respondents to regularise the petitioner services which was disposed of on 14.8.1998 directing the respondent to decide the representation of the petitioner. In pursuance thereof order dated 5.2.1999 has been passed which is impugned in the writ petition. The aforesaid order has stated that petitioner since has attained more than 45 years of age he cannot be considered for regular appointment. On the aforesaid ground the claim of the petitioner was rejected. The counter-affidavit has been filed by the State in which it has been reiterated that any person who has attained the age of 45 years is not eligible for regularisation. The date of birth of the petitioner is 25.6.1941. The respondent defended the action. A reference has also been made to the Government Order dated 1.1.1996 which is with regard to Collection Peon. The aforesaid Government Order provides that 50% vacancy of Collection Peon should be filled up by Seasonal Collection Peon from those by selection of those persons who have discharged their duties satisfactory in four faslies and who have not attained the age of 45 years on the first day of the year of selxtion. Petitioner has filed a supplementary affidavit annexing the copy of circular issued by Board of Revenue on 10.11.2000 in which reference has been made to the Government Order dated 26.6.2000 which provided for grant of relaxation in age of Collection Amin.

5. The aforesaid circular provided that in appropriate cases relaxation can be granted in the age. The order states that the proposal be submitted to the Board of Revenue for consideration and the appointment should not be made till the relaxation is granted by the Board of Revenue.

6. Having heard the learned Counsel for the parties and after perusing the record. It appears that there was no error in rejecting the representation on the ground that he has completed more than 45 years of age and his appointment on regular collection peon cannot be granted. Although the maximum age of 45 years is prescribed but in the appropriate cases, relaxation is contemplated in age which is to be granted by Board of Revenue.

7. In view of the aforesaid circular dated 10.11.2000 petitioner's case for relaxation was required to be considered. Since petitioner was found fit to be appointed on regular basis by the selection committee as stated by the petitioner and proceeding of the selection committee dated 9.8.1994 has also been annexed in the writ petition.

8. In the circumstance the respondent No. 3 is directed to send the proposal to the Board of Revenue for consideration of granting of relaxation in age in the petitioner's case along with all relevant records within a period of one month from date of receipt of a certified copy of this order. Appropriate orders be passed after receiving the orders from Board of Revenue.

9. With the aforesaid direction the writ petition is disposed of.