

**Anil Kumar Arya Vs. State and Others**

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**Court :** Uttaranchal

**Decided On :** Sep-07-2010

**Judge :** B.S.Verma, J.

**Acts :** Dying and Harness Rules, 1974,

**Appeal No. :** Writ Petition No. 1191 of 2009 (S/S)

**Appellant :** Anil Kumar Arya

**Respondent :** State and Others

**Judgement :**

1. Heard learned counsel for the parties.

2. By means of this petition, the petitioner have sought following reliefs:-

“1. Issue a writ, order or direction in the nature of mandamus commanding the respondents to consider the case of the petitioner for appointment under the Dying and Harness Rules for appointment on Class-III post.

2. Issue a writ, order or direction in the nature of ad interim mandamus commanding the respondent No. 2 to consider and decide the representation of the petitioner dated 18.02.2009.

3. Issue a writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

4. Award the cost of the petition in favour of the petitioners.”

Brief facts of the case, according to the petitioner are that father of petitioner died on 08.09.2008. After death of his father, petitioner applied for appointment under Dying and Harness Rules, 1974, for Class III post on 25.09.2008. The application, moved by the petitioner is within time. On 03.11.2009, respondent No. 2 referred the matter to the State Government for necessary directions.

In para-9 of the writ petition, it has been stated that the appointing authority of the petitioner was Director General, Medical Health and Family Welfare, Dehradun (respondent No. 2) and as such, there was no occasion for the said authority to refer the matter to the State Government.

Since the application is within time, the respondent No. 2, who is appointing authority has to take decision on the application of the petitioner for appointment under Dying and Harness Rules, 1974.

Therefore, without entering into the merits of the case, the writ petition is disposed of with the direction to respondent No. 2 to consider the application of the petitioner in accordance with Dying and Harness Rules, 1974 within a period of 8 weeks from the date of production of certified copy of this order.

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