

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Writ Petition No. 1346 (SS) of 2011

Dinesh Dobhal

...Petitioner

Versus

State of Uttarakhand and another

...Respondents

Mr. Vipul Painuly, learned counsel present for the petitioner.

Mr. H.M. Raturi, learned standing counsel present for the State of Uttarakhand.

Hon'ble Sudhanshu Dhulia, J. (Oral)

Heard Mr. Vipul Painuly, learned counsel for the petitioners and Mr. H.M. Raturi, learned Standing Counsel for the State of Uttarakhand.

The father of the petitioner was working on the post of Patwari/ Lekhpal. He died in harness on 03.06.1979. At the time of death of his father, the petitioner's age was six months. Consequently, the petitioner attained age of majority and moved an application on 21.04.1995 for appointment on compassionate ground but such appointment was not made. Ultimately on 06.11.2006 application for appointment on compassionate ground was rejected by the Additional Secretary Government of Uttaranchal stating therein that there is limitation of time of five years on such appointment, which cannot be relaxed. This was done in the year 2006, and the writ petition was filed in the year 2011.

Although the writ petition is highly belated and there is nothing to speak in the writ petition, no interference can be made by this Court inasmuch the primary consideration for making appointment on compassionate ground under the Dying in Harness Rules is that the family which has lost its only bread-winner comes under the immediate hardship and such hardship came to the family of the deceased in the year 1979. The petitioner at the time of death of his father was only six months of age. There is nothing on record to show that

such application was moved by the mother of the petitioner within time. The application of the petitioner was rejected by the Additional Secretary, Government of Uttarakhand on the ground of limitation.

Almost on similar set of facts the Hon'ble Apex Court in the case of **Sanjay Kumar Vs. State of Bihar and others** reported in [(2000) 7 Supreme Court Cases 192] has held that such belated application for compassionate appointments are liable to be rejected for the simple reason that in case such applications are considered, it will loose the very purpose for such appointments (compassionate appointment) are made. The Apex Court in such cases while rejecting the argument held as under:

“3. We are unable to agree with the submissions of the learned Senior Counsel for the petitioner. This court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the breadearner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in *Director of Education v. Pushpendra Kumar*². It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.1988, the petitioner was a minor and was not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.”

The writ petition fails and is liable to be dismissed and the same is hereby dismissed.

No order as to costs.

(Sudhanshu Dhulia, J.)

Dated: 30.09.2011
VKG