

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No. 2149 of 2016

Harish Singh

... Petitioner

Vs

State of Uttarakhand & others

... Respondents

Mr. Hem Chandra Joshi, learned counsel for the petitioner.

Mr. T.P.S. Takuli, Brief Holder, present for the State of Uttarakhand.

Hon'ble Sudhanshu Dhulia, J. (Oral)

1. The father of the petitioner was working as a Seasonal Labour in the Forest Department, who died while in harness on 20.06.2006. The petitioner moved a representation only on 12.12.2015 i.e. after almost 10 years. The representation has been rejected by the concerned authority vide order dated 19.01.2016 on the ground that the petitioner is not covered under the U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (*from hereinafter referred to as "Dying in Harness Rules"*).

2. Evidently, at the time of the death of his father, the petitioner was 12 years of age and he could not have been appointed on compassionate ground at the relevant time, as he had not reached the age of majority. It is also an admitted fact that he had moved application for compassionate appointment in the year 2015 i.e. after about nine years of the death of his father, therefore, he is not covered under Rule 5 of Dying in Harness Rules. Rule 5(1) of the Dying in Harness Rules reads as under:-

“5. Recruitment of a member of the family of the deceased (1) In case a Government servant dies in harness after the commencement of these rules and the spouse of the deceased Government servant is not already employed under the Central Government or a State Government or a Corporate owned or controlled by the Central Government or a State Government, one member of his family who is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government shall, on making an

application for the purposes, be given a suitable employment in Government service on a post except the post which is within the purview of the Uttar Pradesh Public Service Commission, in relaxation of the normal recruitment rules if such person:-

- (i) fulfils the educational qualifications prescribed for the post.
- (ii) is otherwise qualified for Government service, and
- (iii) makes the application for employment within five years from the date of the death of the Government servant.

Provided that where the State Government is satisfied that the time-limit fixed for making the application for employment causes undue hardship in any particular case, it may dispense with or relax the requirement as it may consider necessary for dealing with the case in a just and equitable manner.”

3. In view of the above provision of law, the limitation for applying for compassionate appointment is normally five years and here in the present case at hand, the petitioner applied for compassionate appointment after a period of about nine years of the death of his father. All the same, the fact remains that the employment on compassionate ground is given to mitigate the hardship of the family, which has lost its only bread-winner, so that the family is able to tied-over the difficult circumstances which have been fallen upon the family. At the time of the death of her father, the petitioner was minor and had not attained the age of majority, therefore, at the relevant time he could not be given appointment on compassionate ground. The circumstances of the family are not the same as there were in the year 2007.

4. The petition lacks merit. Considering the above facts and circumstance of the case, no relief can be granted to the petitioner.

5. Accordingly, the writ petition fails and is hereby dismissed.

(Sudhanshu Dhulia, J.)

30.12.2016

Aswal