

Court No. - 35

Case :- WRIT - A No. - 13198 of 2023

Petitioner :- Vinay Pratap Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ranjeet Singh

Counsel for Respondent :- C.S.C.,Hridaya Narayan Mishra

Hon'ble Vikas Budhwar,J.

Heard Sri Ranjeet Singh, learned counsel for the petitioner, Sri Shailendra Singh, the learned Standing Counsel, who appears for Respondent no. 1 and Sri Hridaya Narayan Mishra, who appears for Respondent Nos. 2 to 4.

The case of the writ petitioner is that his father, namely, Prem Chand Jadaun, who was a regular employee in the respondent-Corporation while working as Senior Foreman died in harness on 02.07.2009. The writ petitioner claims to be possessing the relevant qualifications. He staked his claim for according compassionate appointment on 21.05.2014 and thereafter on 06.04.2015, the third respondent, Regional Manager, U.P. State Road Transport Corporation, Etawah Region, Etawah proceeded to pass an order granting compassionate appointment on contractual basis under Dying in Harness Rules. The writ petitioner claims to have continued on the post in question. However, now the writ petitioner has filed the present writ petition with the mandamus directing the respondent to treat the petitioner on the post of Conductor under Dying in Harness Rules and to grant all consequential benefits including difference of salary. A counter affidavit has been filed on behalf of the Corporation, Respondent Nos. 2, 3 and 4, in which in paragraph-5, a stand has been taken that since the writ petitioner was already accorded compassionate appointment on contractual basis under Dying in Harness Rules, as he had approached this Court after a period of 5 years, thus he is not entitled to regular appointment. Further submission is that the writ petitioner has waived its rights while being offered compassionate appointment and now after a period of approximately 8 years, he is before this Court. In Rejoinder, learned counsel for the writ petitioner submits that once the entitlement of the writ petitioner has not been disputed regarding grant of compassionate appointment, then merely because, he has approached after 5 years would not be a relevant factor, as compassionate appointment is always to be made on regular basis.

He seeks to rely upon a judgment passed in **Writ-A No. 53024 of 2016 (*Umesh Kumar Vs. State of U.P. and others*)**.

I have heard learned counsel for the parties and perused the records. Since, the writ petitioner had been accorded compassionate appointment, though on temporary/ contractual basis and his entitlement has not been disputed, but the only ground which is being sought to be taken by the respondents is that the writ petitioner has approached the Writ-Court after five years, thus in the opinion of the Court, the case of the writ petitioner be considered in this regard as obviously law is well settled that the compassionate appointment is always made on substantive basis. Notably, the entitlement of the writ petitioner is not under dispute.

Considering the facts and circumstances of the case. the writ petitioner stands disposed of granting liberty to the writ petitioner to represent his case before the third respondent, who shall consider the claim of the compassionate appointment sympathetically looking into the fact that the entitlement of the writ petitioner is not disputed and he has been continued to work on the post in question.

The said exercise be completed within six weeks from the date of production of certified copy of the order.

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 17.11.2023
N.S.Rathour