

Court No. - 36

Case :- WRIT - A No. - 16095 of 2023

Petitioner :- Abhishek Patel

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Durga Singh

Counsel for Respondent :- C.S.C.,Kushmondeya Shahi

Hon'ble Manjive Shukla,J.

1. Heard Sri Durga Singh, learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1 & 2 as well as Sri Kushmondeya Shahi, learned counsel appearing for the Respondents No. 3, 4, 5 and 6.

2. Petitioner through this writ petition has prayed for a direction from this court thereby commanding the respondents to consider his claim for appointment under Dying in Harness Rules.

3. Petitioner in this writ petition has stated that since mother of the petitioner has died in harness on 23.10.2005 and petitioner on attaining the age of majority submitted an application for compassionate appointment on 23.05.2017, therefore, the matter has been referred to the State Government for considering the case for grant of relaxation in five years' period provided for submitting application for compassionate appointment in Government order dated 04.09.2000.

4. This court after hearing the parties' counsels passed an order on 31.10.2023 which is extracted as under:

"1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the Respondents No. 1 & 2 as well as Mr. Kushmondeya Shahi, learned counsel appearing for the Respondents No. 3, 4 & 5.

2. Mother of the petitioner while working on the post of Assistant Teacher in a primary school died in harness on 23.10.2005. Since petitioner was minor at the time of death of his mother as such after attaining the age of majority he filed application for his compassionate appointment on 23.05.2017.

3. Learned counsel appearing for the petitioner has filed supplementary affidavit whereby, he has brought a document on record which shows that the District Basic Education Officer, Prayagraj has referred the matter to Secretary, U.P. Basic Education Board, Prayagraj for the purposes of

granting relaxation in the time limit of five years provided for submitting application for compassionate appointment.

4. Learned counsel appearing for the petitioner has invited attention of this court towards a letter written by the Secretary, U.P. Basic Education Board, Prayagraj on 04.09.2023 to the District Basic Education Officer, Prayagraj, whereby certain information relating to petitioner's matter was sought and District Basic Education Officer, Prayagraj has also forwarded the said information.

5. Let learned counsel appearing for the Respondent No. 3 take instructions in the matter from Secretary, U.P. Basic Education Board, Prayagraj as to what has been done in the matter of petitioner.

6. List this matter on 16.11.2023 as fresh."

5. Today Sri Kushmondeya Shahi has produced before this court a copy of the letter dated 06.10.2023 sent by the State Government to the Director of Education (Basic), U.P., Lucknow whereby officers have been directed to participate in the meeting so that State Government may take decision in respect of the pending cases of compassionate appointment.

6. Along with the aforesaid letter dated 06.10.2023, a list of pending matters is appended wherein name of petitioner finds place at Serial No. 2. From perusal of the aforesaid letter dated 06.10.2023, it is apparent that case of the petitioner is pending at the level of the State Government.

7. Learned counsel appearing for the petitioner at this stage has submitted that since the matter is pending before the State Government, therefore, it is in the fitness of things that this writ petition may be disposed of with a direction to the State Government to consider and decide petitioner's case for grant of relaxation in the period of five years provided for submitting application for compassionate appointment in Government order dated 04.09.2000.

8. On the other hand, learned counsels appearing for the respondents do not have any objection if this writ petition is disposed of with a direction to the State Government to consider and decide the petitioner's matter expeditiously.

9. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is **disposed of** with a direction to Respondent No. 1 to consider and decide the petitioner's case for grant of relaxation in five years' period provided for filing application for compassionate appointment

under the Government order dated 04.09.2000, within a period of two months from the date of service of certified copy of this order.

Order Date :- 16.11.2023

A. Mandhani