

Court No. - 36

Case :- WRIT - A No. - 19291 of 2023

Petitioner :- Saurabh Raj Verma

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Abhishek Kumar

Counsel for Respondent :- C.S.C., Sanjay Kumar Singh

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1 & 2 and Mr. Sanjay Kumar Singh, learned counsel appearing for the Respondents No. 3, 4 & 5.

2. Petitioner through this writ petition has challenged the order dated 14.09.2023 passed by the District Basic Education Officer, Ballia whereby petitioner's claim for compassionate appointment has been rejected on three grounds, firstly petitioner has not annexed the application filed by him, secondly petitioner has not provided the no dues certificate issued in favour of late Reeta Srivastava and thirdly elder brother of the petitioner Mr. Santosh Raj Verma has not given no objection in favour of the petitioner's compassionate appointment.

3. Facts of the case, in brief, are that mother of the petitioner Smt. Reeta Srivastava while working on the post of Head Mistress in Primary School, Piyaria, Block Gadhwar, District Ballia died in harness on 27.04.2023. Since petitioner was dependent on the earnings of her mother, therefore, he immediately filed an application for compassionate appointment. Petitioner has also filed online application for his compassionate appointment and the said application is annexed at Page No. 28 of the writ petition.

Petitioner in his writ petition has categorically stated that his relations with his elder brother Mr. Santosh Raj Verma are not cordial and therefore, his elder brother has not given no objection in favour of the compassionate appointment of the petitioner. Petitioner in his writ petition has also stated that elder brother of the petitioner is working with Indian Air Force and therefore, he does not require the compassionate appointment in lieu of the death of the mother and further at the time of death of the mother he was not dependent on the earnings of the mother.

4. Learned counsel appearing for the petitioner has submitted that case of the petitioner for compassionate appointment has been rejected by the District Basic Education Officer, Ballia on absolutely unsustainable grounds as the first ground taken in the order dated 14.09.2023 on its face is absolutely frivolous as petitioner besides submitting off online application has also submitted online application for his compassionate appointment.

5. Learned counsel appearing for the petitioner has further submitted that the second ground taken in the order dated 14.09.2023 that petitioner has not provided no dues certificate is fallacious as Smt. Reeta Srivastava was working as Headmistress in a Primary School under the control of District Basic Education Officer, Ballia, therefore, he could have very well issued no dues certificate in favour of late Smt. Reeta Srivastava.

6. Learned counsel appearing for the petitioner in the last has submitted that third ground taken for rejecting case of the petitioner for compassionate appointment i.e. his elder brother Mr. Santosh Raj Verma has not given no objection for petitioner's compassionate appointment is not sustainable in the eyes of law as his elder brother neither has claimed compassionate appointment

in place of late Reeta Srivastava nor he can claim the said compassionate appointment as he is already in employment with the Indian Air Force and at the time of death of late Reeta Srivastava he was not dependent on her earnings.

7. Learned counsel appearing for the petitioner has vehemently argued that since petitioner's elder brother is not having cordial relations with the petitioner, therefore intentionally he has not given no objection in his favour only just to deprive the petitioner from getting compassionate appointment in place of her mother. It has further been argued that no objection certificate of the elder brother could have importance in the eventuality where he would have claimed the compassionate appointment in place of her mother and once he is not eligible and entitled for the said compassionate appointment, there is not much relevance of his no objection certificate.

8. Mr. Sanjay Kumar Singh, learned counsel appearing for the Respondents No. 3, 4 & 5 has argued that just to avoid any kind of future complication no objection certificates are taken from the family members before providing compassionate appointment to the dependent of the government servant, therefore since in the case of petitioner no objection certificate has not been provided by his elder brother, his case for compassionate appointment has not been considered.

9. So far as Grounds No. 1 & 2 mentioned in the rejection order dated 14.09.2023 are concerned, Mr. Sanjay Kumar Singh, learned counsel appearing for Respondents No. 3, 4 & 5 has admitted that the said grounds are not relevant as petitioner has already submitted online application for his compassionate appointment and since late Reeta Srivastava was working in a Primary School

run under the control of District Basic Education Officer, Ballia, therefore no dues certificate can very well be procured by the District Basic Education Officer, Ballia himself.

10. I have considered the rival submissions advanced by the learned counsels appearing for the parties, and I find that case of the petitioner for compassionate appointment has been rejected on three grounds. The first ground taken in the order dated 14.09.2023 that petitioner has not annexed his application, is absolutely unsustainable as petitioner has submitted online application for compassionate appointment which is on record of the writ petition at Page No. 28. The second ground taken in order dated 14.09.2023 is absolutely frivolous as late Reeta Srivastava while alive was working with District Basic Education Officer, Ballia therefore, he can very well get the no dues certificate issued in favour of late Reeta Srivastava. So far as third ground taken for rejecting the case of the petitioner vide order dated 14.09.2023 that his elder brother Mr. Santosh Raj Verma has not given no objection for compassionate appointment of the petitioner is concerned, this court is of the view that the said ground is also absolutely unsustainable in the eyes of law as elder brother of the petitioner cannot claim compassionate appointment in place of late Reeta Srivastava as he is already employed with the Indian Air Force and on the date of death of petitioner's mother he was not dependent on her. Since Mr. Santosh Raj Verma cannot claim compassionate appointment and as per averments made in the writ petition he is not having cordial relations with the petitioner therefore, even if, Mr. Santosh Raj Verma has not provided no objection certificate in favour of the petitioner, that cannot be an impediment in offering compassionate appointment to the petitioner.

11. In view of the aforesaid reasons, this writ petition is allowed.

Order dated 14.09.2023 is quashed. Matter is remanded to District Basic Education Officer, Ballia to consider the petitioner's case again by passing speaking and reasoned order within a period of two months from the date of service of certified copy of this order.

12. It is also provided that if there are other family members except Mr. Santosh Raj Verma, they will be provided opportunity of hearing by the District Basic Education Officer, Ballia while passing order in respect of compassionate appointment of the petitioner.

Order Date :- 23.11.2023

Gaurav