

Court No. - 8

Case :- WRIT - A No. - 3276 of 2023

Petitioner :- Mohd Saleem Khan

Respondent :- State of U.P. Thru. Addl. Chief Secy. Revenue Lko. and 6 others

Counsel for Petitioner :- Arun Kumar Shukla, Amit Kumar Mishra, Brijendra Kumar Singh

Counsel for Respondent :- C.S.C., Shakeel Ahmad Jamal

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Brijendra Kumar Singh, learned counsel for the petitioner as well as Sri Sandeep Sharma, learned Standing Counsel and Sri Shakeel Ahmad Zamal, learned counsel for the private opposite parties.

2. The present writ petition under Article 226 of the Constitution of India has been filed for a direction to give appointment to the petitioner on a suitable post under The U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (for short 'Dying in Harness Rules').

3. Father of the petitioner, Babu Khan, was employed as Driver on substantive capacity in the office of the District Magistrate, Lucknow and he died on 6.7.2016 in harness. The petitioner claimed for appointment under the During In Harness Rules and when it was not being considered, he approached this Court by filing Writ Petition No.7747 (SS) of 2017 before this Court. This Court disposed of the said writ petition vide order dated 13.4.2017 in following terms:-

"Heard learned counsel for the parties.

The petitioner claims compassionate appointment, however, it appears there are other rival claimants and as also pointed by the learned Standing Counsel the deceased employee is said to have married twice, therefore, in these circumstances, it is for authority to look into the matter and take appropriate decision, but, with expedition and after opportunity to all the concerned, say, within a period of three months from the date a certified copy of this order is submitted.

With the aforesaid observations, the writ petition is disposed of."

4. The District Magistrate, Lucknow vide order dated 28.9.2017 disposed of the representation of the petitioner saying that the decision for giving appointment to the petitioner under the Dying in Harness Rules on compassionate ground, will be taken after succession certificate is obtained from the competent court. The petitioner has filed this petition for the same relief.

5. Sri Shakeel Ahmad Zamal, learned counsel for the private opposite parties has tendered a copy of the order dated 28.2.2023 passed by this Court in Writ-A No.1873 of 2023 filed by Mohammad Sameer Khan, in which this Court vide order dated 28.2.2023 directed the said Mohammad Sameer Khan to make a fresh detailed representation to District Magistrate, Lucknow raising all his grievances, annexing therewith a copy of this writ petition along with annexures and all the documents in support of his claim, within a period of two weeks from the said date. It is said that the District Magistrate, Lucknow is seized of the matter and the petitioner has also been issued notice.

6. Considering the aforesaid fact that in pursuance to the order of this Court dated 28.2.2023 the District Magistrate, Lucknow is seized of the matter, it would be appropriate to direct the petitioner to participate in the proceedings before the District Magistrate, Lucknow and put his case before the District Magistrate, Lucknow, who will take appropriate decision after giving opportunity of hearing to both the parties.

7. Writ the aforesaid observation and direction, the present writ petition stands ***disposed of finally.***

Order Date :- 23.5.2023

Rao/-