

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 292 of 2021

Appellant :- State Of U.P. Thru. Secy. Home Lko. And Ors.

Respondent :- Amar Bahadur Singh

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Mohd. Ali, Mohd. Ali, Sanjay Kumar Singh

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Rajan Roy, J.

Heard Shri Amitabh Rai, learned Additional C.S.C. for the State and Shri Sanjay Kumar Singh, learned Counsel for the respondent.

The death of the respondent's father occurred in the year 1991 when the respondent was only 12 years of age, therefore, obviously he was not entitled to compassionate appointment at that age. After attaining the age of 18, he applied for the same in 1997 which was rejected in 1999. After several rounds of litigation and several rejections of his claim, ultimately Writ Petition bearing no. 275 (S/S) of 2007 was filed by the respondent challenging one such rejection, which has been allowed on 09.02.2021 against which the State has come in appeal.

The contention of the respondent's Counsel is that the reasoning of the writ Court does not suffer from any error, therefore, it does not require intervention.

On the other hand, learned State Counsel says that the respondent has survived for so long and he does not have any legal right for compassionate appointment, certainly not at this stage.

Considering the fact that the death occurred way back in 1991 and we are now in 2023, as also, the fact that the respondent's mother is still alive and receiving family pension and other retiral dues which were revised from time to time and the respondent is now almost 43-44 years of age, we are of the opinion that the learned Single Judge should have taken these facts into consideration. We do not dispute the reasoning given by the learned Single Judge that merely because family pension is being received does not mean that compassionate appointment cannot be considered but purely in the facts of the

case, considering the lapse of time, we are of the opinion that respondent is not entitled to be considered for appointment on compassionate basis at this stage. The judgment of the writ Court is accordingly set aside only for this reason.

The appeal stands **allowed**.

Order Date :- 22.9.2023

Lokesh Kumar

[Rajan Roy, J.] [Pritinker Diwaker, CJ.]