

Court No. - 8

Case :- WRIT - A No. - 4480 of 2019

Petitioner :- Raju Kumar

Respondent :- State Of U.P.Thru Prin.Secy. P.W.D. Lucknow And Ors.

Counsel for Petitioner :- Ajeet Kumar,Brijesh Kumar,Nisha
Srivastava,Shivanand

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. This petition came be filed in the year 2019.
2. Order sheet discloses that the counsels for the petitioner has been seeking adjournment on one pretext or the other on 20.01.2022, 05.12.2022, 17.01.2023, 05.04.2023, 25.05.2023.
3. On 25.05.2023, learned counsel appearing for the petitioner again sought adjournment on the ground of her ill health, this Court directed the matter to be listed in the next cause list peremptorily. Thus, the matter is listed peremptorily today.
4. Despite the matter is listed peremptorily today, learned counsel appearing for the petitioner has again sought adjournment. However, said request of learned counsel appearing for the petitioner cannot be accommodated and, therefore, the case is being decided with the assistance of Sri Uttam Kumar Srivastava, learned Standing Counsel.
5. Present petition under Article 226 of the Constitution of India has been filed seeking a writ of mandamus for giving appointment to the petitioner on a suitable post under The U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 in place of his deceased father-Tulsi Ram, who died on 15.07.2017 in harness.
6. Late father of the petitioner was working in the Public Works Department on Class IV post (Mate). As mentioned above, he died in harness on 15.07.2015. Late father of the petitioner left behind two sons and two daughters namely, Raju Kumar, Pawan Kumar, Smt. Kamla Devi and Smt Maina. Both daughters are married. After demise of the father, the petitioner as well as his elder brother had applied for giving them appointment on compassionate ground.
7. No decision could be taken as there are two claimants for one job and no

one submitted succession certificate or letter of administration, as the case may be. The petitioner is claiming his right on the basis of a will allegedly executed by his father but unless the will is probate by the competent Court, the authority cannot act upon it. In view thereof, I find that this Court cannot issue a direction for giving appointment to the petitioner on compassionate ground on the basis of will allegedly executed by his father in his favour. However, if he obtains probate will or letter of administration from the competent authority, the authority may proceed in accordance with law. In view thereof, I find no ground to interfere to give any direction. This petition being devoid of merit and substance is hereby ***dismissed***.

(Dinesh Kumar Singh, J.)

Order Date :- 5.7.2023
prateek