

Court No. - 7

Case :- WRIT - A No. - 6007 of 2023

Petitioner :- Ravi Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Higher Edu.
Deptt. Lko. And 3 Others

Counsel for Petitioner :- Ajay Pratap Singh, Vinod Kumar
Singh

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin, J.

1. Heard.

2. Instant writ petition has been filed praying for a mandamus commanding the respondents to reconsider the case of the petitioner for appointment to Class III post in the institution on compassionate ground under The U.P. Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974 (hereinafter referred to as the Rules, 1974)

3. The contention of learned counsel for the petitioner is that the petitioner's father was working on a Class IV post, who died in harness on 23.03.2021. The petitioner staked his claim for compassionate appointment but instead of he being appointed on a Class III post of Clerk of which he is possessed of the qualification he has been appointed in November 2011 on a Class IV post.

4. The contention is that the respondent no.4-Committee of Management has recommended the case of the petitioner for his appointment on a Class III post as per recommendation dated 07.06.2021, a copy of which is Annexure-4 to the writ petition, which has not been considered by the respondents and hence the petition.

5. The issue as to whether the dependent of an employee, who himself was working on a Class IV post, can be appointed on a Class III post is no longer resintegra having been settled by the Apex Court in the case of **State of U.P. and others vs. Premlata - (2022) 1 SCC 30**, wherein the Apex Court has held the words 'suitable post' as used in the Rules, 1974, can only be construed vis-a-vis the post which was held by the deceased government employee and that the dependent of the deceased government servant cannot get a better post than what was held by the deceased employee. Later, the Apex Court in the

judgment of **Suneel Kumar vs. State of U.P. and others** passed in Civil Appeal No. 5038 of 2022 decided on 02.08.2022, after considering the earlier judgment of **Premlata** (supra) has concurred with the said view.

6. Considering the aforesaid more particularly when father of the petitioner was a holder of a Class IV post as such there cannot be any occasion for the petitioner being given a Class III post having been appointed on a Class IV post.

7. In view of the aforesaid discussion, no case for interference is made out. The writ petition is accordingly **dismissed**.

Order Date :- 23.11.2023

A. Katiyar