

Court No. - 7

Case :- WRIT - A No. - 7789 of 2023

Petitioner :- Km. Dolly Thru. Her Guardian/ Maternal (Mama) Ramesh Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Basic Education Lko. And 4 Others

Counsel for Petitioner :- I.M. Pandey Ist,Ajeet Verma

Counsel for Respondent :- C.S.C.,Moti Chand Yadav,Ran Vijay Singh,Shailendra Singh Rajawat

Hon'ble Abdul Moin,J.

Heard learned counsel for the petitioner, learned Standing Counsel for the respondent no. 1, Shri Ran Vijay Singh, learned counsel for the respondents no. 2, Shri Shailendra Singh Rajawat, learned counsel for the respondents no. 3 & 4 and Shri Moti Chand Yadav, learned counsel for the respondents no. 5.

The instant writ petition has been filed praying for a writ of mandamus commanding the respondents to take appropriate steps against the respondent no. 5 under the provisions of Rule 5-(3) and (4) of the Uttar Pradesh Recruitment of Dependents of Government Servants (Dying in Harness) Rules, 1974 (hereinafter referred to as the Rules,1974).

The contention of learned counsel for the petitioner is that upon the death of the petitioners' father who was working as Assistant Teacher under the respondents on 12.03.2022, respondent no. 5 was given compassionate appointment. However respondent no. 5 has failed to maintain the petitioner, the minor daughter of the deceased employee and hence the petition.

Learned counsel for the petitioner contends that in this regard the petitioner has already submitted an application to the respondent no. 3 under the provisions of Rules 1974 which categorically provides that at the time of grant of compassionate appointment the compassionate appointee would have to give

an undertaking of maintaining the dependents of the deceased employee which appears to have been flagrantly violated by the respondent no. 5 in not maintaining the petitioner, the daughter of the deceased employee.

As a decision is to be taken by the respondent no. 3 and the application is said to be pending at the end of the respondent no. 3 as per the application dated 29.09.2023, a copy of which is annexure 2 to the petition, the instant writ petition is **disposed of** with a direction to the respondent no. 3 i.e. District Basic Education Officer, to consider the application of the petitioner in accordance with law, relevant rules and pass a reasoned and speaking order upon the same within a period of four weeks from the date of receipt of a certified copy of this order.

While sending the certified copy of this order, a copy of the application dated 29.09.2023 would again be sent to respondent no. 3.

At this stage, Shri Moti Chand Yadav, learned counsel for the respondents no. 5 states that he undertakes to comply with whatever order is passed by the respondent on. 3 on the basis of the application submitted by the petitioner which is in accordance with law.

Order Date :- 10.10.2023
J.K. Dinkar