

Court No. - 7

Case :- WRIT - A No. - 9562 of 2023

Petitioner :- Harishanker Tiwari

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Housing And Urban Planning Deptt. Lko And 2 Others

Counsel for Petitioner :- Saryu Prasad Tiwari

Counsel for Respondent :- C.S.C., Jagdish Prasad Misra

Hon'ble Abdul Moin, J.

Heard learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondent no. 1 and Sri Umesh Chandra, Advocate who has filed his Vakalatnama today in Court on behalf of the respondents no. 2 & 3.

Instant writ petition has been filed praying for a mandamus commanding the respondent no. 3 to appoint the petitioner on a suitable post according to his eligibility qualification.

The contention is that the father of the petitioner was working on a Class IV post of Peon who died in harness on 19.11.2011. Although the petitioner has been appointed on compassionate grounds vide order dated 18.04.2016 yet appointment has been made on a Class IV post.

The contention is that as the petitioner is a graduate as such, his claim should be considered by the respondents for appointment on compassionate grounds on a Class III post which would be a suitable employment for the petitioner keeping in view his qualification. The compassionate appointments are governed by the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (hereinafter referred to as "Rules, 1974").

With regard to appointment on a "Suitable Post" or suitable employment the issue is no longer *res integra* having been settled by the Apex Court in the case of **State of Uttar Pradesh and Ors Vs. Premlata** reported in (2022) 1 SCC 30 and **Suneel Kumar Vs. State of U.P and Ors** reported in 2022 LiveLaw (SC) 675 wherein the Apex Court after considering the words "Suitable Employment" in the Rules, 1974 has held that the said words have to be understood with reference to the post held by the deceased employee meaning thereby that the superior qualification held by the dependent would not entail the dependent to get a better post than what was held by the deceased employee.

Considering the aforesaid and admittedly the father of the petitioner was working on a Class IV post consequently, there cannot be any occasion for the petitioner to be appointed on a Class III post or for his case to be considered on a Class III post.

Keeping in view the aforesaid discussion, no case for interference is made out. The writ petition is dismissed.