



HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI AND
HON'BLE JUSTICE SRI SUBHASH UPADHYAY**

Special Appeal No. 465 of 2018

Union of India and others

--Appellants

Versus

Chandan Singh

--Respondent

Presence:-

Mr. Pankaj Chaturvedi, Advocate for the appellants

Mr. Naresh Pant, Advocate for the respondent through video conferencing

The Court made the following:

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. There is a delay of 84 days in filing the Appeal. For the reasons indicated, delay is condoned. Accordingly, Delay Condonation Application (CLMA No. 8476 of 2018) stands disposed of.

2. This intra-Court Appeal is directed against judgment and order dated 17.02.2018, rendered by learned Single Judge in Writ Petition (S/S) No. 144 of 2010. The impugned judgment is reproduced below:-

"The petitioner's father was engaged as valve-man. He died-in-harness on 15.03.1998. The petitioner applied for compassionate appointment on 20.04.1998. The petitioner was offered appointment letter on 30.05.2002. However, surprisingly, the same was withdrawn on 17.08.2002. The petitioner filed Writ Petition (S/S) No. 133 of 2003 before this Court which was decided on 25.07.2008 whereby the respondent were directed to consider the case for the petitioner afresh. The case of the petitioner was reconsidered and rejected on 22.07.2009 vide annexure No.1, on the ground that the petitioner did not fall within 5% quota meant for compassionate appointment.

The fact of the matter is that the petitioner has already been offered appointment vide letter dated 30.05.2002. It pre-supposes that his candidature was considered against 5% vacancies, as per the norms laid down by the respondent-Union of India. The Union of India cannot be permitted to change its stand from time to time. It is nowhere mentioned in the pleadings that the vacancy was not available within a period of one year when the petitioner applied on 15.03.1998 till 14.03.1999.

The action of the respondents rejecting the case of the petitioner is arbitrary. Moreover, the petitioner was not issued any show cause notice before withdrawing the appointment letter issued to him on 30.05.2002 vide letter 17.08.2002.

There is a violation of principle of 2018:UHC:1045 appointment on compassionate basis is to enable the family of deceased facing the economic crises due to sudden demise of sole bread earner.



2025:UHC:4764-DB

Accordingly, the writ petition is allowed. Impugned annexure No.1 dated 22.07.2009 is quashed and set aside. The appointment letter dated 30.05.2002 shall stand revived.”

3. Learned counsel for the appellant submits that appointment on compassionate ground offered to the writ petitioner (respondent herein), was withdrawn on the ground of non-availability of sufficient vacancy within 5 percent quota available for appointment on compassionate ground. Thus he submits that learned Single Judge was not justified in allowing the writ petition without considering applicable policy.

4. Learned counsel for the respondent, per contra, submits that respondent's father was serving as a valve man in Military Engineering Service who died on 15.03.1998, leaving behind the writ petitioner, his mother and two younger siblings. Since there was no source of income available to the family, therefore writ petitioner applied for compassionate appointment, his request was processed as per applicable policy and competent authority offered appointment on compassionate ground to respondent on 30.05.2002, which could not have been withdrawn unilaterally by the authorities without assigning any reason or providing any opportunity of hearing to the respondent. Thus he submits that learned Single Judge was justifying in allowing his writ petition.

5. We have perused the judgment rendered by learned Single Judge. Learned Single Judge has noted that there was nothing on record to show that vacancy was not available with a period of one year from the date when writ petitioner applied for compassionate appointment. Learned Single Judge has given valid reasons for allowing the writ petition and has held that principles of natural justice were violated



2025:UHC:4764-DB

while withdrawing the offer of appointment.

6. We do not find any illegality or infirmity in the impugned judgment which may warrant interference in this intra-Court appeal.

7. In such view of the matter, the Special Appeal fails and is dismissed.

MANOJ KUMAR TIWARI, J.

SUBHASH UPADHYAY, J.

Dt: 10th June, 2025
Mahinder