



2025:AHC:175422

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 558 of 2020

Ratnakar Singh

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ajai Kumar Singh Kushwaha, Janardhan Yadav, Prabhakar Awasthi
Counsel for Respondent(s)	: C.S.C.

Court No. - 38

HON'BLE DONADI RAMESH, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.
2. The present writ petition has been filed by the petitioner assailing the order dated 25.09.2019 passed by District Inspector of Schools, Ghazipur, denying compassionate appointment to the petitioner on the ground that services of the father of the petitioner was not regularized.
3. The father of the petitioner was appointed as assistant teacher in short term vacancy on 16.08.1998. Accordingly, he joined in the said post on 17.09.1998. After his appointment, proposals / records were sent to the District Inspector of Schools for approval and the same was not accorded, hence the father of the petitioner approached this Court by way of filing Writ-A No.3945 of 2001. The said writ petition was disposed of by this Court on 14.08.2003. Accordingly, the District Inspector of Schools accorded / approved appointment of the petitioner on 02.07.2004. In view of the same, the father of the petitioner's appointment is within scope of Section 33 G of the U.P. Secondary Education Services Selection Board Act, 1982 (hereinafter referred to as "the Act, 1982"). Accordingly, the recommendation was made for regularization to the Joint Direction of Education, Varanasi and the said proposals were pending before the said authority.
4. While things stood thus, the father of the petitioner died on 25.02.2018. Hence, the petitioner moved an application for compassionate appointment under the provisions of the U.P. Government Servants Dying-in-Harness

Rule, 1974 (hereinafter referred to as "the Rules, 1974") to the 5th respondent and the same was forwarded to the 3rd respondent vide covering letter dated 23.05.2018. Despite receipt of the same, the 3rd respondent has not considered the case of the petitioner under the Rules, 1974. The petitioner personally made one more representation on 08.09.2018 and the same was also not considered by the respondents. Left with no other option, the petitioner approached this Court by way of filing Writ-A No.12772 of 2019. The said writ petition was disposed of by this Court vide order dated 13.08.2019 directing the District Inspector of Schools to consider and pass appropriate orders in accordance with law. Subsequently, the respondents have rejected the case of the petitioner only on the ground that services of the petitioner's father were not regularized. Aggrieved by the same, the present writ petition has been filed by the petitioner.

5. Based on the above contention, learned counsel for the petitioner has submitted that in fact, identical issue raised before the division Bench of this Court in the case of **State of U.P. Vs. Kuldeep Thakur** reported in **2017 LawSuit (All) 335** wherein the division Bench considered identical issue and observed in paragraph nos.9, 11 and 15 as follows:

(9) However, in the present case, this claim has to be looked into from the point of view that the father of the respondent petitioner was entitled for being regularized in view of the terms and conditions of the Government order dated 13.08.2015. This consideration process had already commenced and the name of the father of the respondent petitioner had already been forwarded but no decision had been taken, and in between in October, 2015, the father of the respondent petitioner died.

(11) Applying the said analogy, the claim of the father of the respondent petitioner had already been forwarded and he was very much alive when the Government order dated 13.08.2015 was issued. In such a situation the State Government or its concerned department ought to have considered the claim of the respondent petitioner for regularization and then could have proceeded to determine as to whether the respondent petitioner was entitled to any benefit or not. In our opinion, the fortuitous circumstance of the death of the father of the respondent petitioner does not absolve the State Government of its obligation to consider the claim of regularization of the father of the respondent petitioner. There can be a case where the consideration has been made and the regularization accepted but before the order reaches a man dies or his death takes place in the near vicinity or simultaneously with regularization. In this situation, the claim of regularization of the deceased employee does not remain an option to be ignored by the State Government. The State Government or its authorities are under an obligation to consider such a claim and to award any consequential

benefits if the process has been set into motion as has happened in the present case. Once the father of the respondent petitioner is found entitled to be regularized as on the date of the Government order dated 13.08.2015, on which date he was admittedly alive, then in that event the claim of the respondent petitioner can also be considered.

15. Consequently, we modify the judgment dated 22.11.2016 to the extent that it shall be open to the appellant State to consider the status of regularization of the father of the respondent and then proceed to take an appropriate decision with regard to the claim of the respondent petitioner for compassionate appointment in the light of the observations made hereinabove.

6. Even in the above referred case, the service of the deceased employee was not regularized and the fact remains that regularization was pending before the said authority. Hence, the division Bench took cognizance and held that the application should be considered while treating the services of the deceased employee as regularized and provided compassionate appointment to the petitioner. Even in the instant case, as the father of the petitioner was appointed way back in 1998 and died on 25.02.2018 and somehow two decades have lapsed and admittedly, the proposals for regularization were pending before the Joint Direction of Education, Varanasi. In the said circumstances, as per observations made by the division Bench of this Court, the petitioner is entitled and eligible for compassionate appointment under the provisions of the Rules, 1974.

7. Learned Standing Counsel for the State-respondents has consented with regard to legal submissions made by learned counsel for the petitioner.

8. Considering the submissions made by learned counsel for the parties and on perusal of the observations made by the division Bench of this Court in the above referred judgment, the impugned order dated 25.09.2019 passed by District Inspector of Schools, Ghazipur, is set aside, remanding the matter to the competent authority to consider the application of the petitioner in terms of the observations made by the division Bench of this Court in the above referred judgment and pass appropriate orders within a period of three months from the date of receipt of the copy of this order.

9. Accordingly, the present writ petition is disposed of.

September 26, 2025

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(Donadi Ramesh,J.)