

(2000) 12 AHC CK 0116
In the Allahabad High Court
Case No : C.M.W.P. No. 51963 of 2000

Committee of Management , R.B. Rao Intermediate College and another APPELLANT

Vs

Joint Director of Education and others RESPONDENT

Date of Decision : 06-12-2000

Acts Referred:

Citation : (2001) 1 AWC 764 : (2001) 90 FLR 777 : (2001) 1 UPLBEC 706

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : A.B. Singh, for the Appellant;

Final Decision : Disposed Of

Judgement

V. M. Sahai, J.—Dhrup Deo Dubey was working as chaukidar on a class-IV post in Ram Bilas Rao Intermediate College. Rampur Buzurg, Salempur, Deoria. He died in-harness on 28.3.1999, leaving behind Smt. Subhawati Devi his widow, a minor son and a minor daughter. The widow claimed appointment under the Dying-in-Harness Rules. On 25.1.2000, the District Inspector of Schools, Deoria (in brief D.I.O.S.) called for report from the Manager/ Principal. The District Committee constituted under notification dated 2.2.1995 considered the petitioner's claim and found the widow entitled for appointment under the Dying-in-Harness Rules. The D.I.O.S. on 23.8.2000 directed the Manager/ Principal to appoint Smt. Subhawati Devi. The petitioners made a representation on 15.9.2000 to D.I.O.S. that order dated 23.8.2000 be cancelled. The manager alleged that Smt. Subhawati Devi is aged 60 years. He raised dispute about date of birth of the widow. And stated that son of the deceased who is a minor be given appointment after he becomes major. It appears that at the instance of the petitioners, the Principal did not issue appointment letter to the widow. The widow informed the D.I.O.S. that neither she has been appointed nor permitted to join the institution. The D.I.O.S. on 16.10.2000 wrote a letter to the Manager/Principal that they were not complying with the order dated 23.8.2000. And in case the

order is not complied, legal action would be taken. Instead of complying with the orders of D.I.O.S., the petitioners have filed this petition challenging the order of D.I.O.S. dated 23.8.2000.

2. Sri A. B. Singh, the learned counsel for the petitioners has urged that Smt. Subhawati Devi is aged sixty years and she could not be appointed under the Dying-in-Harness Rules. He further urged that the date of birth of the widow is disputed as to whether it is 18.4.1968 or 18.4.1958. The representation dated 15.9.2000 in this regard made by Manager is pending before the D.I.O.S. but without deciding it, the D.I.O.S. could not direct for compliance of his order. He lastly urged that the management is ready to appoint minor son of the deceased after he becomes major, therefore, the appointment of the widow deserves to be set aside. On the other hand, Sri S. P. Pandey the learned standing counsel appearing for respondent Nos. 1 and 2 supported the orders of D.I.O.S.

3. Appointments on compassionate grounds under the Dying-in-Harness Rules is made as an exception to the general rules of recruitment. The object of compassionate appointment is to enable the family of the deceased to tide over the sudden crisis, and grant immediate relief to the family in penury, which is facing undue hardship due to the death of sole earner of the family. Dhruv Deo Dubey died on 28.3.1999 leaving behind his widow, minor son and minor daughter. The family did not have any source of livelihood nor was able to make both ends meet. This is clear, as the widow is illiterate and children are minor. On her claim for appointment under the Dying-in-Harness Rules, the District Committee constituted under Regulation 105 of the Regulations framed under U P. Intermediate Education Act, 1921. recommended for appointing her on a class-IV post. The D.I.O.S. on 23.8.2000 directed the appointing authority to appoint respondent No. 3, the widow. The petitioners are opposing her appointment. The objection that the widow is aged 60 years does not appear to be correct. No evidence or material was filed along with the representation. Photostat copies of family register have been filed in this Court. The entries are conflicting. In one date of birth is 18.4.1958 whereas in the other it is 18.4.1968. This is a disputed question of fact. It cannot be decided by this Court. The petitioners did not appear to have raised it before the D.I.O.S. The circumstances do not support the petitioners. Dhruv Deo Sharma died in 1999. He was not aged sixty years. Therefore, it is reasonable to assume that his wife was not aged sixty years in 2000. The petitioners for the reasons best known to them are opposing her appointment. The claim that they would offer appointment to her minor son when he becomes major is also advanced to deny appointment to the widow. The family of the deceased appears to be in financial crisis. The widow is running from pillar to post but the petitioners are not complying with the order of D.I.O.S. nor they are permitting the widow to join. The order was passed by D.I.O.S. on the basis of public policy. It serves public interest. In absence of any valid reason, the petitioner cannot deny appointment to the widow.

4. The writ petition is devoid of any merit. It is accordingly dismissed. The

petitioners and principal of Ram Bilas Rao Intermediate College, Rampur Buzurg, Salempur, district Deoria, are directed to appoint Smt. Subhawati Devi the respondent No. 3 on a class-IV post and permit her to join as directed by the District Inspector of Schools.