
(2003) 12 AHC CK 0084
In the Allahabad High Court
Case No : CMWP No. 53772 of 2002

Jai Prakash

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 01-12-2003

Acts Referred:

Citation : (2003) 12 AHC CK 0084

Hon'ble Judges : Sunil Ambwani, J

Final Decision : Allowed

Judgement

Sunil Ambwani, J.—Heard Counsel for petitioner and Sri Sameer Sharma for respondents.

2. In view of the facts and circumstances of the case, parties have agreed that the writ petition be decided at this stage.

3. The petitioner's father Late Ram Dhani was a conductor in U.P. State Road Transport Corporation at Unnao Depot. He died on 1151985 in a Transistor Bomb Explosion. The petitioner's mother also died within a period of three month on 2771985. At that time, according to the High School Certificate, (Annexure 8 to the writ petition) petitioner was about 9 years. He passed his High School Examination in 1991, attained majority on 1451994 and applied for compassionate appointment on 2081994. It is alleged that the application remained pending in spite of a favourable recommendation made by the Assistant Regional Manager, Unnao on 811999. The Regional Manager rejected the application on the ground that under the Dying in Harness Rules the application is barred by limitation and does not merit consideration.

4. Counsel for petitioner states that he made application immediately after he attained the majority, and that in view of the extraordinary circumstances in which his father and mother died, his case deserves special consideration. He further submits that Regional Manager did not have necessary powers, to condone the delay and that in fact Managing Director as highest authority of the

Corporation should have considered the matter.

5. Sri Sameer Sharma, on the other hand, states and compassionate appointment is given to tide over immediate financial crises. The application cannot be entertained after about 9 years, and that the petitioner slept over his rights. He submit that the petitioner has challenged the order dated 1521999 after three years and that the delay has not been adequately explained. In the present case U.P. Dependents of Government Servants Dying in Harness Rules, 1974 are applicable. The petitioner made an application for compassionate appointment immediately after he became major. It was recommended by the Assistant Regional Manager on 811999. The Regional Manager has wrongly treated the date of recommendation as the date of application. Under the Rules of 1974, the power to condone the delay beyond 5 years is with the State Government. In the present case Board of Director of the Corporation is the highest authority. Although under Section 4 of the U.P. Road Transport Corporation Act, the State Government can give general or special direction to the Corporation, the authority to take final decision vests in the Board of Directors who have delegated certain powers to Managing Director. The Board of Director being the highest authority in the Corporation, is competent to consider the condonation of delay beyond five years for compassionate appointment.

6. In the present case, extraordinary hardships were suffered by the petitioner and that in fact he has lived the entire childhood as orphan gives sufficient explanation for filing writ petition.

7. For the aforesaid reasons, the writ petition is allowed. The impugned order dated 1521999 passed by Regional Manager, U.P. State Road Transport Corporation, Kanpur is set aside. The Board of Director are directed to decide the application for condonation of delay in compassionate appointment to the petitioners as expeditiously as possible and preferably within four months. The Board will take into consideration the fact that petitioner's father died in Transport Bomb Explosion in 1985 when terrorist activities had just begun in the country. He acted in discharge of his duties, in taking the transistor found his bus to the table of the cashier for deposit. The cashier Shri K.D. Tiwari tried to turn the knob on which it exploded. The father died in extraordinary circumstances as a victim of the terrorist activity. Such victims must receive due sympathies. The petitioner's mother also died in less than three months. This case deserves special consideration by the Board of Directors. There shall be no order as to costs.