
(2015) 02 UK CK 0030

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1407 of 2013

Pratap Singh Bisht

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 25-02-2015

Acts Referred:

Citation : (2015) 02 UK CK 0030

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : M.C. Kandpal, Senior Advocate, assisted by S.S. Chaudhary, for the Appellant; R.P. Sharma, Learned Brief Holder, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J—The mother of the petitioner was a Class-IV employee in a minority though grant-in-aid intermediate school, which is situated in Almora, Uttarakhand. She passed away while in harness, on 24.01.2007. The petitioner applied for the post, which thus became vacant, on compassionate ground. This application has been rejected and as such the petitioner has filed the present writ petition before this Court. The ground taken by the petitioner before this Court is that not only there are provisions for appointment on compassionate ground which are applicable in a grant-in-aid though minority school but such appointment have always been given in the past as well. Although not brought on record a statement has been given by the petitioner which has also been admitted by the counsel representing private respondents - Mr. A.K. Joshi that the grandfather of the petitioner was initially appointed as a Peon and on his death the father of the petitioner was given compassionate appointment and thereafter on his death his wife i.e. the mother of the petitioner was also given appointment on compassionate ground. Therefore, the respondents cannot deny that such appointment cannot be made and the order passed by the respondents is totally arbitrary in nature. The respondent in its counter affidavit has stated that the appointment has been rejected on two grounds vide order dated

30.10.2012. Firstly, there is no provision for appointment on compassionate ground in a grant-in-aid minority school. He admits that such a provision did exist earlier and as there was a provision for appointment on compassionate ground under the Regulations which have been framed under the U.P. Intermediate Education Act, 1921 namely, Regulation 103, but it categorically exempts the application of such a provision in a minority grant-in-aid school. Secondly, the petitioner was not found suitable for the post of Peon.

2. After creation of the State of Uttarakhand on 09.11.2000, the regulations, known as "Uttarakhand School Education Regulations, 2009", have been framed under the Uttarakhand School Education Act, 2006. Under Regulation 91, such appointment can be made in a grant-in-aid school. Even under Regulation 91 there is no provision that such appointment can be given in a grant-in-aid minority school but even assuming that under the regulations framed in the year 2009 such appointment can be made, the regulations became applicable in the year 2011 whereas mother of the petitioner expired in the year 2007. Therefore, there is no provision for appointment on compassionate ground in a grant-in-aid minority institute.

3. The case of the petitioner further is that such appointment has been given not only in the case of the father and mother of the petitioner but in other cases as well. This may be so, but merely because such appointment has been given to the father and mother of the petitioner, he cannot claim appointment on compassionate ground as a matter of right, since there is no provision of law presently enforced in the minority grant-in-aid school under which such an appointment can be granted.

4. In view thereof, no direction can be given to the school to make such an appointment. Further the respondents have also stated in the impugned order that the petitioner was called for interview, along with other persons, for the post of Peon, in which petitioner was not found suitable. Hence, such an appointment cannot be given to the petitioner. Further, there is also no other vacant post in the school on which such an appointment can be made.

5. In view thereof, no direction can be given to the respondents to make such an appointment on compassionate ground. The writ petition thus fails and is hereby dismissed. No order as to costs.