
(2002) 09 AHC CK 0056
In the Allahabad High Court
Case No : C.M.W.P. No. 36892 of 2002

Prem Chandra

APPELLANT

Vs

Managing Director of U.P.S.R.T.C. and Others

RESPONDENT

Date of Decision : 06-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh State Road Transport Corporation Employees (Other than Officers)
Service Regulations, 1981 — Regulation 77

Citation : (2002) 5 AWC 3489

Hon'ble Judges : S.P. Mehrotra, J

Bench : Single Bench

Advocate : Rajesh Kumar, for the Appellant; R.A. Gaur, for the Respondent

Judgement

S.P. Mehrotra, J.—This writ petition under Article 226 of the Constitution of India has been filed, inter alia praying for issuance of a writ, order or direction in the nature of mandamus directing the Respondents to provide job in accordance with the provisions of Dying in Harness Rules, 1974.

2. It is, inter alia, alleged by the Petitioner that the father of the Petitioner was driver in Banda depot of U.P. State Road Transport Corporation, and that the father of the Petitioner died on 29.9.2001, during his service period, and that the Petitioner has passed B.A.II Ird in I Ind Division, and that after the death of his father, the Petitioner has moved a representation dated 8.11.2001 (Annexure-3 to the writ petition) before the Regional Manager, U.P. State Road Transport Corporation (Respondent No. 2), inter alia praying for appointment as the legal heir in place of his deceased father in accordance with the Dying in Harness Rules. A perusal of the said representation dated 8.11.2001 (Annexure-3 to the writ petition) shows that various documents mentioned in the said representation dated 8.11.2001 have been filed.

3. It is, inter alia, further alleged by the Petitioner that the Petitioner has sent a reminder letter dated 4.7.2002 (Annexure-4 to the writ petition) to the Managing

Director, U.P. State Road Transport Corporation, Head Office, Lucknow (Respondent No. 1).

4. I have heard Sri Rajesh Kumar, learned Counsel for the Petitioner and Sri R. A. Gaur, learned Counsel representing the Respondents.

5. Sri Rajesh Kumar, learned Counsel for the Petitioner submits that in view of Regulation 77 of the U.P. State Road Transport Corporation Employees (other than officers) Service Regulations, 1981, the Petitioner is entitled to be appointed in place of his deceased father on a post in the U.P. State Road Transport Corporation for which he possesses the prescribed qualification. The said Regulation 77 is quoted below:

"In the event of death or permanent disability of an employee while in service his son or any other member of his family dependent on him may be appointed on a post in the service for which he possesses the prescribed qualification. The procedure for recruitment contained in these Regulations will not be applicable in his case. If necessary the age limit and academic qualifications may also be relaxed.

6. Sri R. A. Gaur, learned Counsel for the Respondents has placed reliance on a circular dated 2nd March, 2001, and he submits that the appointment in place of the deceased employee is dependent on the availability of the vacancy and decision in this regard is to be taken by the Managing Director of the U.P. State Road Transport Corporation. Sri Gaur, further submits that the application filed by the Petitioner in this regard before the Regional Manager, U.P. State Road Transport Corporation, Jhansi (Respondent No. 2) will be forwarded to the Managing Director, U.P. State Road Transport Corporation (Respondent No. 1). The relevant extract of the said circular is quoted below:

other language

7. Having considered the submissions made by the learned Counsel for the parties. I am of the opinion that it would be just and proper to direct the Petitioner to file a fresh application along with the requisite document before the Regional Manager, U.P. State Road Transport Corporation, Jhansi (Respondent No. 2) within 15 days from today along with a certified copy of this order. On receipt of such application filed by the Petitioner, the Respondent No. 2 will forward the said application to the Managing Director, U.P. State Road Transport Corporation, Head Office, Lucknow, expeditiously, preferably within a period of 3 weeks from the date of filing of the said application along with certified copy of this order before the Respondent No. 2. On receipt of such application from the Respondent No. 2 the Respondent No. 1 will take appropriate decision on the said application expeditiously, preferably within a period of three months from the date of receipt of such application along with certified copy of this order from the Respondent No. 2.

8. It is made clear that no directions are being given on the merits of the

application to be filed by the Petitioner, as it is for the Managing Director, U.P. State Road Transport Corporation, Head Office, Lucknow (Respondent No. 1) to take appropriate decision in this regard.