
(2010) 05 AHC CK 0260
In the Allahabad High Court
Case No : Writ Petition No.1620 (S/S) of 2008

Radha	Vs	APPELLANT
State of U.P.and Others		RESPONDENT

Date of Decision : 19-05-2010

Acts Referred:

Citation : (2010) 05 AHC CK 0260

Hon'ble Judges : Devi Prasad Singh, J

Final Decision : Allowed

Judgement

Devi Prasad Singh, J.—Heard learned counsel for the petitioner and the learned standing counsel. Perused the records.

2. Writ petition under Article 226 of the Constitution of India has been preferred feeling aggrieved with the impugned order by which petitioner's candidature has not been considered under Dying in Harness Rules on compassionate ground in view of Government Circular dated 20.1.2003.

3. According to petitioner's counsel, the husband of the petitioner was initially appointed on 1.2.1987 on muster roll basis. Thereafter, he was transferred in the work charge establishment on 8.2.2000. Since then he was performing his duties continuously with the satisfaction of the authorities. He was placed in the pay scale of Mate and died in harness on 8.11.2007. After death of husband, the petitioner applied for appointment on compassionate ground. Application has been rejected by the impugned order dated 14.12.2007. Feeling aggrieved, the petitioner had preferred the present writ petition.

4. Solitary argument advanced by the learned counsel for the petitioner is that circular dated 29.1.2003 relied upon by the Executive Engineer was stayed by this Court by interim order dated 19.9.2003 passed in Writ Petition No.6166 (S/S) of 2003. A copy of the interim order passed by this Court has been filed as Annexure4 to the writ petition.

5. It has further been stated that the circular dated 19.9.2003 has been quashed by this Court at later stage. Accordingly the submission is that while passing the impugned order dated 14.12.2007 it was not incumbent upon the Executive Engineer to reject the petitioner's candidature relying upon the said circular.

6. However, learned Standing counsel submits that petitioner is not entitled for appointment on compassionate ground as stated in para 10 to 13 of the counter affidavit. The submission made by the learned Standing Counsel does not seem to be sustainable keeping in view the fact that the impugned order has been passed merely on the ground that circular dated 29.1.2003 creates a bar.

7. It is settled law that every order should stand on its own leg and it cannot be supplemented by filing affidavit in this Court vide AIR 1978 SC 851: Mohinder Singh Gill and another v. the Chief Election Commissioner New Delhi and others.

8. The submission of learned Standing counsel does not seem to be sustainable. At the face of record petitioner's candidature has been rejected merely relying upon the circular dated 29.1.2003. Writ petition deserves to be allowed.

9. Accordingly, writ petition is allowed. A writ in the nature of certiorari is issued quashing the order dated 14.12.2007 and 15.1.2008 passed by the opposite party No.5 as contained in Annexure No.1 to the writ petition collectively with consequential benefits.

10. Let petitioner's case be reconsidered for appointment on compassionate ground expeditiously and preferably within a period of two months from the date of receipt of a certified copy of this order and decision may be communicated to the petitioner. No order as to costs.

(Petition allowed)