
(1994) 04 AHC CK 0068
In the Allahabad High Court
Case No : Special Appeal No. 721 of 1993

Raghu Raj Yadav

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 04-04-1994

Acts Referred:

Citation : (1996) AWC 26 Supp

Hon'ble Judges : R.A. Sharma, J;M. Katju, J

Bench : Division Bench

Advocate : R.N. Singh and A.P. Singh, for the Appellant;

Final Decision : Allowed

Judgement

R.A. Sharma, J.—The Appellant who is a Class-IV employee in Hindu Inter College, Mugra Badshahpur, District Jaunpur (hereinafter referred to as the College), has filed a writ petition before this Court challenging the order appointing the Respondent No. 3 under dying in harness Rule. Further prayer for appropriate direction to promote him to Class-III post has also been made. This writ petition has been dismissed by the learned Single Judge. Hence this Special Appeal.

2. The father of the Respondent No. 3 who was an employee of the College, died in 1982. At that time Respondent No. 3 was a minor. She made an application in 1993 for appointment under dying in harness Rule in the College. By the impugned order passed on 18.8.1993, she was appointed as Class-III employee.

3. From the facts enumerated above, it is thus clear that although the father of the Respondent No. 3 died in 1982 but she had made application for appointment in 1993 and was appointed in the same year. She thus applied for and was appointed after 11 years of the date of death of her father. A Division Bench of this Court in Harivansh Sahay Srivastava v. State of U.P. 1991 (17) ALR 4 (Sum) has laid down that the intention of the dying in harness Rule is to provide assistance to the family of the deceased and it is at the time of death that such

help is required by the family and as such appointment on compassionate ground cannot be made several years after the death of the employee. Supreme Court in Umesh Kumar Nagpal Vs. State of Haryana and Others, has also laid down that the object of the compassionate appointment is to enable the family of the deceased employee to tide over the sudden financial crises and such appointment should be made only after taking into consideration the need of the family and other relevant considerations.

4. In the instant case the Respondent No. 3 was appointed after about 11 years of the death of her father. There is no justification for making appointment on compassionate ground after such a long period after death.

5. For the reasons given above, this Special Appeal is allowed. The judgment of the learned Single Judge is set aside and impugned order dated 18.8.1993 appointing Respondent No. 3 as a class-III employee is quashed. The College authorities are directed to consider the case of the Appellant for promotion in accordance with law, if he is eligible for the same.