
(2009) 12 UK CK 0008
In the Uttarakhand High Court
Case No : Special Appeal No. 188 of 2008

Regional Manager, Uttarakhand Transport Corporation	APPELLANT
Vs	
Arun Sharma and Another	RESPONDENT

Date of Decision : 18-12-2009

Acts Referred:

Citation : (2009) 12 UK CK 0008

Hon'ble Judges : J.S. Khehar, C.J.; Tarun Agarwala, J

Bench : Division Bench

Advocate : D.C.S. Rawat, for the Appellant; Arvind Kumar Sharma and Deependar Singh Patni, for the Respondent

Final Decision : Dismissed

Judgement

J.S. Khehar, C.J.—The claim of the Respondent Arun Sharma for appointment on compassionate grounds under the Dying in Harness Rules was not acceded to. It is, therefore, that he approached this Court by filing Writ Petition (S/B) No. 72 of 2002. The aforesaid writ petition was allowed by a learned Single Judge of this Court on 04.04.2008.

2. Through the instant special appeal, the Appellant i.e. the Uttarakhand State Road Transport Corporation has assailed the order passed by the learned Single Judge directing the Respondents to re-consider the claim of the Petitioner (Respondent No. 1 herein) for appointment on compassionate grounds.

3. The undisputed factual position is, that the father of the Respondent-Arun Kumar died on 26.02.1994. The Respondent's mother made a representation on 28.05.1994 to her husband's employer i.e. the Uttar Pradesh State Road Transport Corporation, seeking appointment on compassionate grounds for her son, on his attaining the age of majority. The Respondent- Arun Sharma, having been born on 11.01.1981 was to attain majority on 11.01.1999. On attaining majority, the Respondent Arun Sharma himself addressed a representation dated 04.06.1999 to the Uttar Pradesh State Road Transport Corporation, seeking

appointment on compassionate grounds. This claim at the hands of the Respondent was not considered, inasmuch as, no order, one way or the other, was passed by the authorities. It is, therefore, that the Respondent approached this Court, by filing Writ Petition (S/B) No. 72 of 2002. In the counter affidavit filed by the Appellant, it was asserted at the hands of the Appellant, that the Respondent- Arun Sharma had raised a claim for appointment on compassionate grounds, after a long delay of five years and as such, was not entitled to consideration under the Dying in Harness Rules.

4. The same submission, as was made before the learned Single Judge, has been made before us. Besides the sole submission of delay no other submission has been advanced on behalf of the Appellant, to assail the order dated 04.04.2008.

5. The learned Single Judge had found hardly any justification in the aforesaid plea, because the father of the Respondent-Arun Sharma had died on 26.02.1994 and in less than three months thereof, the Respondent's mother had made a representation on his behalf for appointment on compassionate grounds. The Respondent's mother, in her representation, had also disclosed that the Respondent was a minor and as such, her request for appointment on compassionate grounds, should be considered on his acquiring the age of majority. Thereafter, the Respondent- Arun Sharma acquired the age of majority on 11.01.1999 whereupon he himself moved a representation for appointment on compassionate grounds on 04.06.1999. Herein again the representation was filed by the Respondent- Arun Sharma, only a few months after attaining age of majority. In the aforesaid view of the matter, learned Single Judge was of the view, that the claim of appointment on compassionate grounds having been made at the hands of the mother of the Respondent only a few months after the death of his father and now again just a few months after the Respondent acquired the age of majority, the delay, if any, was liable to be condoned under provisions which were a part of the Dying in Harness Rules.

6. Despite the aforesaid determination at the hands of the learned Single Judge, learned Counsel for the Appellant vehemently contends, that the determination of the learned Single Judge cannot be accepted as just and proper, in view of the recent decision rendered by the SC in Santosh Kumar Dubey Vs. State of U.P. and Others, . We have perused the aforesaid judgment rendered by the Apex Court. In our view, the following observations recorded therein are relevant, to determine whether or not, the same is applicable to the present controversy:

11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the

family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service.

13. In the present case, the father of the Appellant became untraceable in the year 1981 and for about 18 years, the family could survive and successfully face and overcame the financial difficulties that they faced on missing of the earning member. That being the position, in our considered opinion, this is not a fit case for exercise of our jurisdiction. This is also not a case where any direction could be issued for giving the Appellant a compassionate appointment as the prevalent rules governing the subject do not permit us for issuing any such directions. The appeal, therefore, has no merit and is dismissed.

7. Having considered the facts and circumstances of the case relied upon by the learned Counsel for the Appellant, we are of the view, that the same cannot be made applicable to the present controversy, wherein the request for appointment on compassionate grounds was made after 18 years. Herein the mother of the Respondent applied on his behalf, for appointment on compassionate grounds within three months from the death of his father. The Respondent himself applied for appointment on compassionate grounds within five months of his attaining the age of majority. We are satisfied that in the facts and circumstances of this case, the learned Single Judge was fully justified in concluding that since discretion was vested in the Appellants to condone delay under the Dying in Harness Rules, the same ought to have been condoned, in view of the aforesaid factual position. We hereby affirm the determination rendered by the learned Single Judge.

8. In view of the above, we find no merit in this appeal. The same is, accordingly dismissed. The Appellant shall now comply with the orders passed by the learned Single Judge by re-considering the claim of Respondent-Arun Sharma, in accordance with law, within three months of the receipt of a certified copy of this order.