
(2010) 09 AHC CK 0435
In the Allahabad High Court

Shahzad Ahmad

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 01-09-2010

Acts Referred:

Uttar Pradesh State Road Transport Corporation Employees (Other than Officers)
Service Regulations, 1981 — Regulation 77

Citation : (2010) 09 AHC CK 0435

Hon'ble Judges : Shabihul Hasnain, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Shabihul Hasnain, J.—Heard Sri J.S. Shukla, learned Counsel for the petitioner, Sri Umesh Chandra Pandey for the opposite arty Nos. 1 to 4. Learned Standing counsel has accepted notice on behalf of opposite party No. 1.

2. Petitioner's father who was a regular employee of the opposite parties died on 9.4.2006. There is Regulation No. 77 of UPSRTC Regulations-1981 which is quoted below:

77. Employment to the dependant of an employee dying or incapacitated during service.- In the event of death or permanent disability of an employee while in service his son or any other member of his family dependant 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.

3. Petitioner has moved an application on 2.5.2006 which was forwarded by the Assistant Regional Manager to the Regional Manager on 29.5.2006 and the Regional Manager in turn forwarded the application of the petitioner to the Managing Director on 6.6.2006. The case of the petitioner is pending with the opposite parties and no decision has been taken in this regard till date.

4. The application was moved in the year 2006, we are in the middle of 2010. The very purpose of legislating the Dying in Harness Rules was to give immediate help to the family whose bread earner has been snatched away by the mighty hands of the death. The opposite parties while dealing with such matters show such apathy and indifference as if death will never touch any other person except the unfortunate family which is before him. Eternal reality of life is to be faced by every body who has come in this world. The State being alive to this situation had promulgated a special legislation for giving one of the dependents a job so that the family does not come to streets. The very purpose of this legislation is negated by the attitude of the opposite party. This attitude has to be deprecated by this Court. The opposite parties should have taken a decision either way.

5. In this regard a judgment has been cited before this Court reported in 2009 (27) LCD 267 in the matter of Rajesh Kumar Yadav v. State of U.P. and Ors. in which his Lordship after relying on certain other judgments like Sunil Kumar Vs. State of U.P. and Others, and Satya Narain v. State of U.P. and Ors., passed in writ petition No. 4108 (S/S) of 2002 has observed that the case of the petitioner shall be considered excluding the consideration of the government order dated 29.1.2003. Apart from this, number of case laws has been referred in this regard. The further argument is that when the statutory provision as mentioned in rule-77 which is quoted above, the executive order like government order can not alter the provisions of the rules. The petitioner cited a number of judgments like Union of India and Another Vs. Tulsiram Patel and Others, Dr. Rajinder Singh Vs. The State of Punjab and Others, (Para 7), Smt. Sushma Gosain and Others Vs. Union of India (UOI) and Others, and C.L. Verma v. State of Madhya Pradesh and Ors., 1989 Supp (2) 437 (para6) to strengthen his case.

6. In view of what has been stated above, this Court directs that the case of the petitioner shall be considered for giving appointment on the basis of Dying in Harness Rules according to his eligibility expeditiously, say within a period of one month from the date a certified copy of this order is placed before him.

7. With these observations and directions the petition is disposed of.