

(2005) 05 UK CK 0020
In the Uttarakhand High Court

Smt. Brijesh Kumar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-05-2005

Acts Referred:

Citation : (2005) 106 FLR 569

Hon'ble Judges : Rajesh Tandon, J

Bench : Single Bench

Judgement

Rajesh Tandon, J.—Heard the learned Counsel for the parties.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to issue appointment letter to the petitioner as Class-IV employee under Dying in Harness Rules, 1974.

2. Briefly stated the husband of the petitioner Sri Vijai Kumar who was working as daily wages for a continuous period of 15 years, she has accrued a right to seek appointment under Dying in Harness Rules.

3. At the time of filing of the writ petition, on 2.11.1999 the Court had passed the following order:

Heard Sri S.P. Shila learned Counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner claims that her husband Shri Vijai Kumar died on 25.11.1997, he worked with the respondents as daily wage employee on Class-IV post from 1983 till his death.

The petitioner moved an application on 15.4.98 and 3.8.98 for appointment under Dying in Harness Rules. The petitioner has not been appointed. The petitioner has placed reliance of judgment of this Court in Smt. Maya Devi v. State of U.P. and Ors. in Civil Misc. Writ petition No. 24231 of 97 decided on 2.3.1998 wherein it has been held that if a daily wage employee has worked for

10 years then his heir can be given appointment on compassionate ground under Dying in Harness Rules. This judgment has also been affirmed by a Division Bench of this Court in Special Appeal No 409 of 1998 decided on 10.8.1998 against the order passed in special appeal, the State of U.P. filed SLP before the Apex Court which is also dismissed, the SIP on 5.2.1999.

The learned Counsel for the petitioner has also placed reliance of a decision of this Court in Writ Petition No. 43904 of 99 Smt. Neeta Pal v. State of U.P. and Anr. In view of this judgment appointment under Dying in Harness Rules could be given to the dependent of daily wage employee who has worked for a period of ten years.

In view of the matter interim mandamus is issued to respondent No. 3 to appoint the petitioner on Class-IV post under the Dying in Harness Rules within a period of two months from the date of certifier copy of this order is produced before him or show cause by filing a counter affidavit within the same period.

4. The writ petition is, therefore, disposed of interim of interim order dated 2.11.1999. The respondents are directed to consider appoint of the petitioner on the suitable post in the light of the observations made in the order.