

**(2010) 02 UK CK 0044**  
**In the Uttarakhand High Court**

|                                     |            |
|-------------------------------------|------------|
| Smt. Kaura Devi Kukreti and Another | APPELLANT  |
| Vs                                  |            |
| State of Uttarakhand and Others     | RESPONDENT |

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**Date of Decision :** 22-02-2010

**Acts Referred:**

**Citation :** (2010) 1 UD 259

**Hon'ble Judges :** Tarun Agarwala, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Tarun Agarwala, J.—Heard Mr. Ramji Srivastava, the learned Counsel for the petitioners and Mr. N.P. Sah, the learned Standing Counsel for the respondents.

2. The Urgency application No. 653 of 2010 is allowed. With the consent of the learned Counsel for the parties, this matter is being taken up today for final disposal.

3. The petitioner's father died in harness in the year 1989. At that time, the petitioner No. 2 was three years old. Upon reaching the age of 17 years, the petitioner applied for appointment on compassionate grounds under the dying-in-harness rules. This application was initially entertained and, it is alleged, that medical and police verification was also done but, subsequently the authority returned the application on the ground that the petitioner was still a minor and, therefore, the application of the petitioner could not be considered. Upon reaching the age of majority, the petitioner again applied in the year 2004 for appointment on compassionate grounds. Since, the application was belated and beyond the period of five years as stipulated under Rule 5 of the Rules, 1974, the authority forwarded the matter to the State Government but subsequently passed an order dated 22nd September, 2005 rejecting the application of the petitioner for appointment on compassionate grounds.

4. The present petition was filed in the year 2007 seeking a writ of mandamus commanding the respondents to give an appointment on compassionate

grounds under the dying-inharness Rules, 1974.

5. Having heard the learned Counsel for the parties, this Court is of the opinion that the petitioner is not entitled for any relief. The petitioner has not questioned the order of the authority dated 22/09/2005 by which his application for appointment on compassionate ground has been rejected. Unless and until the order passed by the competent authority is set aside, no mandamus can be issued to the authority to consider the application of the petitioner afresh. In the light of the aforesaid, the petitioner cannot be granted the relief as claimed by him.

6. Further, the Court finds that the petitioner's application was rejected in the year 2005. The petitioner approached the Court in the year 2007 after a lapse of more than two years for which no plausible explanation has been given. Consequently, on the ground of laches the writ petition is also liable to be dismissed.

7. In any case, the petitioner is not entitled for any relief. The object of the scheme of appointment on compassionate ground is to tide over the financial crisis which occurs upon the death of the bread earner. Admittedly, the petitioner's father died in the year 1989 and the petitioner applied for an appointment in the year 2004 upon attaining the age of majority. The mere fact that the petitioner survived from 1989 till 2004, i.e., for almost 15 years is a clear indication that there was no financial crisis in the family. Appointment on compassionate ground cannot be granted as a matter of right merely because a government servant dies in harness. Financial situation is required to be seen. In the present case, the facts as stated aforesaid gives a clear indication that no financial crisis existed or continued till the filing of the application.

8. In view of the aforesaid, this Court does not find any merit in the writ petition. The writ petition fails and is dismissed.