

(2012) 11 RAJ CK 0066
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4740 of 2009

Uday Singh

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-11-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 2 CDR 598

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : Kuldeep Mathur, for the Appellant; G.R. Punia, AAG Assisted by Mr. Jamwat Gurjar, for the Respondent

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—In this writ petition filed under Article 226 of the Constitution of India, petitioner is seeking directions to the respondents to provide appointment on compassionate ground in accordance with the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servant Rules, 1996 [for short "the Rules of 1996"]. Learned counsel for the petitioner submits that father of the petitioner Late Shri Jagdish Panwar was substantially working in the respondent-Department on the post of L.D.C. and died while in service on 18.06.2007.

2. After death of late Jagdish Panwar an application was moved by the petitioner for providing appointment on compassionate ground under the Rules of 1996 but inspite of filing application in accordance with Rules for appointment on the post of Class-IV respondents are not providing appointment to the petitioner inspite of fact that family of late Jagdish Panwar is suffering financial crises.

3. After issuing notice to the respondents, a reply has been filed by the respondent-Department, in which, it is pleaded that in the District of Banner as many as 51 cases for appointment on compassionate ground are pending for

want of sanctioned post wherein the name of petitioner is at Serial No. 33. Meaning thereby, 32 persons are ahead in the priority to the petitioner, therefore, the appointment has not been provided to the petitioner and appointment will be made as per priority.

4. Learned counsel for the respondents State submits that appointment can be given against the sanctioned post only, therefore, at this stage, the petitioner is not entitled for any direction to provide appointment on compassionate ground, therefore, this writ petition may be dismissed.

5. Heard learned counsel for the parties and perused the Rules of 1996.

6. Upon perusal of the entire scheme of the Rules, it emerges that there is no provision in existence to prepare a priority list for providing appointment on compassionate ground. More so, the purpose for enacting these Rules is to maintain the family of deceased Govt. Employees. In the Rules, the time period is also fixed for filing an application to provide appointment on compassionate ground. Meaning thereby, under the Rules it is an obligation of the respondents to provide appointment immediately to bear the expenses for maintenance of the family of deceased govt. employees but here, in this case, without any provision of law in the Rules of 1996 a casual" reply has been filed by the respondents that 51 cases are pending for appointment in Barmer District.

7. In the opinion of this Court, the action for denial of the appointment by the respondents is totally contrary to the Rules of 1996, so also. against the spirit of the Rules of 1996, The reason for not providing appointment that no sanction post in existence is also baseless because petitioners father was working on the post of LDC and after his death, the said vacancy is in existence and petitioner is claiming appointment on a lower post than the LDC, therefore, obviously petitioner was to be given appointment on the post of Class-IV immediately without further delay but it has not been done by the respondents and compelled the petitioner to file this writ petition before this Court which is pending since last five years. In view of the above, this writ petition is allowed. The respondents are directed to provide appointment to the petitioner on the post of Class-IV employee forthwith without any further delay within a period of fifteen days from the date of receiving of certified copy of this order and compliance report may be sent to this Court on or before 15.12.2012.