

| SL. No | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGES'S ORDERS |
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| | | | <p>WPSS No. 1337 of 2022 <u>Hon'ble Manoj Kumar Tiwari, J.</u></p> <p>Mr. S.K. Mandal, Advocate for the petitioner. Mr. Rakesh Kunwar, Additional Chief Standing Counsel for the State of Uttarakhand.</p> <p>Heard learned counsel for the parties.</p> <p>According to petitioner, his father was a regular employee, who served as <i>Beldar</i> in Public Works Department in District Tehri Garhwal. According to petitioner soon after death of his father, he applied for compassionate appointment, however due to fire in the house of petitioner, in the year 2016, copy of application containing acknowledgment from the office of Public Works Department, has been lost.</p> <p>It is the contention of petitioner that since no decision was taken on petitioner's earlier application submitted in 2016, therefore, petitioner filed another application for compassionate appointment, on 23.03.2021.</p> <p>It is further his case that no decision has been taken on the said application, although, the Senior Staff Officer in the office of Engineer-in-Chief, Public Works Department, in his letter dated 01.09.2021 has expressed an opinion that petitioner's application is time barred, as it was submitted five years after the date of death of his father.</p> |

Learned counsel for the petitioner contends that the opinion given by Senior Staff Officer in his letter dated 01.09.2021, is unsustainable, inasmuch as, the delay if any, is on the part of the departmental authorities, as petitioner had applied for compassionate appointment in 2016 itself.

It is further the contention of learned counsel for petitioner that even if the application submitted by petitioner in 2016 is ignored and the application submitted in 2021 is taken as the first application, then also, petitioner's claim cannot be rejected only on the ground of delay, in view of the power available to State Government to relax the condition of delay as contained in proviso to Rule 5(1) of U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974.

Learned counsel for petitioner further submits that due to outbreak of COVID-19, normal life was thrown out of gear and Hon'ble Supreme Court had also directed that period of limitation for filing appeal, revision etc. shall remain extended between 15.03.2020 to 02.10.2021.

Thus, learned counsel for petitioner submits that having regard to the attending facts and circumstances of the case and also the order passed by Hon'ble Supreme Court in Suo Motu Writ Petition (C) No. 3 of 2020, the delay if any, in moving application for compassionate appointment is liable to be ignored or the State government may grant relaxation in exercise of power contained in proviso to Rule 5(1) of the

aforesaid Rules.

Learned State Counsel submits that the opinion expressed by Senior Staff Officer is not binding upon the Engineer-in-Chief and he may refer the matter to State Government for relaxation, in terms of provision to Rule 5(1) of the aforesaid Rules, if need be.

Learned counsel for petitioner submits that petitioner has already made a representation to Chief Secretary, Government of Uttarakhand and he may be permitted to make fresh representation to Secretary of the concerned department.

Accordingly, writ petition is disposed of with liberty to petitioner to make representation to Secretary, Public Works Department, within 10 days from today. If petitioner makes representation, Secretary, Public Works Department shall consider petitioner's case for grant of relaxation in limitation of five years, as prescribed in proviso to Rule 5 (1) of U.P. Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974, in view of the facts mentioned in the representation. Such decision shall be taken, within six weeks from the date of receipt of representation, with certified copy of this order.

(Manoj Kumar Tiwari, J.)
18.07.2022

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