



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Single No. 1200 of 2024

28th September, 2026

Prabhat Renu

--Petitioner

Versus

State Of Uttarakhand and others

--Respondents

Presence:-

Mr. M.C. Kandpal, learned Sr. Advocate assisted by Mr. Manoj Mohan and Mr. Devesh Kandpal, Advocates for petitioner.

Mr. R.C. Joshi, learned Brief Holder for the State.

Hon'ble Pankaj Purohit, J. (Oral)

Miscellaneous Application (IA/7/2025) is allowed. Rejoinder affidavit filed by petitioner is kept with the records.

2. Heard on the merits of writ petition.

3. Petitioner has challenged the order dated 05.03.2024 passed by respondent no.4-Additional Director (Secondary Education) Kumaon Mandal, Nainital whereby application of petitioner for seeking appointment under the Dying-in-Harness Rules as Assistant Teacher (L.T. Grade) was rejected on the ground that the petitioner can be provided appointment under the amended Rules, 2023 in a Group-C post like Junior Assistant for which the petitioner may move an appropriate application to the competent authority.

4. It is the case of petitioner that petitioner's father, who was working as Assistant Teacher (L.T. Grade) with the respondent-Department, died on 02.09.2023. Petitioner submitted an application along with requisite documents seeking compassionate



appointment as Assistant Teacher (L.T. Grade), since, according to him, he held the prescribed qualification for the said post. The said application was rejected by respondent no.4 by the impugned order in view of the fact that the rules known as the Uttarakhand (Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974) were amended on 28.12.2023. It was observed in the rejection order that in view of amended Rule 5(1), the petitioner, on making an application, can be given a suitable employment in government service in Group 'D' or Group 'C' as Junior Assistant or equivalent post subject to fulfilling conditions given in the Rules.

5. Petitioner has challenged the impugned order on the ground that when the cause of action actually arose in favour of petitioner to move the application, pre-amended Rule 5(1) was in operation which provided that 'a member of deceased government servant may make an application for compassionate appointment; and on making such an application, he/she be given suitable employment in government service which is not within the purview of the Public Service Commission in relaxation of the normal recruitment rules', provided such person fulfills the educational qualifications prescribed for the post.

6. Learned Senior Advocate appearing for petitioner submits that petitioner's father expired on 02.09.2023, and petitioner submitted his application under the pre-amended rules which speaks for suitable appointment in government service which is not within the purview of public service commission subject to his fulfilling prescribed educational qualification for that



purpose. He further submits that petitioner fulfills the qualification for Assistant Teacher (L.T. Grade), (English), and therefore, he submits that relying upon pre-amended rules, petitioner should have been given appointment as Assistant Teacher (L.T. Grade) (English). He thus, submits that the amended rule would not be attracted in the case of petitioner as the same is prospective in nature, and the said rule was brought into effect w.e.f. 28.12.2023 with immediate effect, which is admittedly after the date of moving application by petitioner seeking compassionate appointment.

7. On the other hand, learned State Counsel submits that even the pre-amended rule speaks about giving “suitable appointment in government service not within the purview of the Public Service Commission”. He further submits that a dependant of government servant cannot claim compassionate appointment as a matter of right and that too, on a particular post, and therefore, the impugned order passed by respondent no.4 is just and proper since the same has been passed under the four corners of law. Learned State Counsel has also informed the Court that in the impugned order, it has been provided that the petitioner can make proper application for suitable appointment on a Class-III post which the petitioner has failed to do so far.

8. In order to appreciate the rival submissions of parties, pre-amended as well as amended Dying-in-Harness Rules governing the field are quoted below: -

Uttarakhand (Uttar Pradesh Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974) (Amendment) Rules, 2023

Column-1	Column-2
Existing Rule	Rule hereby substituted



(1) In case a Government servant dies in harness after the commencement of these rules and the spouse (as the case may be) of the Government servant, is not already employed under the Central Government or any State Government or a corporation owned or controlled by the Central Government or State Government then a member of his/her family who is not already employed under the Central Government or any State Government or a corporation owned or controlled by the Central Government or State Government, shall on making an application for the purpose, be given suitable employment in Government Service which is not within the purview of the Public Service Commission in relaxation of the normal recruitment rules, if such person:- (i) fulfills the educational qualifications prescribed for the post, (ii) is otherwise qualified for Government service, and (iii) makes the application for employment within five years of the date of the death of the Government servant: Provided that where the State Government is satisfied that the time limit fixed for making applications employment causes undue hardship in any particular case, it may dispense with or relax the requirement as it may consider necessary for dealing with the case in a just and equitable manner. (2) As far as possible, such employment should be given in the same department in which the deceased Government servant was employed before his death.	5-(1) In case a Government servant dies in harness after the commencement of these rules and the spouse (as the case may be) of the deceased Government servant, is not already employed under the Central Government or any State Government or any State Government or a corporation owned or controlled by the Central Government or State Government, then a member of his/her family who is not already employed under the Central Government or any State Government or a corporation owned or controlled by the Central Government or State Government, shall on making an application for the purpose, be given suitable employment in Government service in Group "D" or Group "C" as Junior Assistant or equivalent post, in relaxation of the normal recruitment rules, if such person- (i) fulfills the educational qualifications prescribed for the post, (ii) is otherwise qualified for Government service, and (iii) makes the application for employment within five years of the date of the death of the Government servant: Provided that where the State Government is satisfied that the time limit fixed for making for employment applications causes undue hardship in any particular case, it may dispense with or relax the requirement as it may consider necessary for dealing with the case in a just and equitable manner. (2) As far as possible, such employment should be given in the same department in which the deceased Government servant was employed before his death.
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9. From a perusal of the said Rules, it is clear that this is an exception to the appointment. The rules



nowhere speaks that a person can claim appointment on a particular post. The father of petitioner expired on 02.09.2023 and the petitioner submitted his application for seeking appointment on the post of Assistant Teacher (L.T. Grade) (English) in view of pre-amended Rules. The pre-amended Rules also speaks about the suitable appointment in a government service not within the purview of public service commission, taking into consideration the educational qualification prescribed for the post. It does not make any specification that the appointment would be made to a particular post claimed by petitioner. The impugned order speaks that the petitioner can submit an application for seeking appointment on a Class-III post.

10. In such view of the matter, this Court is of the considered view that this case does not require any interference. There is no ground made out to overturn the impugned order inasmuch as the same has been passed under the four corners of law. However, it is provided in the interest of justice that the respondent-State shall consider the claim of petitioner for compassionate appointment on a Class-III or equivalent post within a period of two months from the date of production of a certified copy of this order without insisting him for moving a fresh application.

11. Subject to aforesaid observations, the writ petition as well as pending application, if any, stands disposed of. However, there shall be no order as to costs.

(Pankaj Purohit, J.)
28.09.2026