



2026:UHC:4041-DB

Judgment Reserved on: 14.05.2026

Judgment Delivered on :22.05.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND
THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY
Special Appeal No.132 of 2026

District Magistrate Nainital and Others -----Appellants

Versus

Ghanshyam Singh Bisht -----Respondent

Presence:-

Mr. B.S. Parihar, learned Addl. C.S.C. for the State of Uttarakhand.

Mr. Sanjay Bhatt, learned counsel for the respondent.

JUDGMENT : (per Mr. Subhash Upadhyay J.)

1. Present intra-court appeal is directed against the judgment and order dated 02.09.2024 passed by the learned Single Judge in WPSS No.3298 of 2017, "Ghanshyam Singh Bisht Vs. District Magistrate Nainital and Others" whereby the writ petition filed by the respondent was allowed. The respondent had challenged an order dated 14.03.2017 passed by S.D.M. Dhari whereby the claim of the writ petitioner/respondent for appointment on compassionate ground was rejected.

2. As per the case of the writ petitioner / respondent, his father late Shri Bhawan Singh Bisht was appointed as Seasonal Collection Amin in 1994 and he and 17 other similarly situated employees had filed a



Civil Misc. Writ Petition No.36942 of 1997 seeking regularization of their services before the Allahabad High Court which was allowed vide order dated 30.07.1998 in terms of the order dated 16.07.1997 passed by the Court in Civil Misc. Writ Petition No.9557 of 1997, "Umrao Singh Rawat and Others Vs. State of U.P."

3. A Special Appeal No.119/2008 was filed by the State Government against the order dated 30.07.1998 before the Allahabad High Court and the said special appeal on transfer to this High Court was dismissed on 18.12.2009. It is the further case of the writ petitioner that the services of the father of the writ petitioner and other similarly situated employees were regularized on 10.09.2010 but prior to the said order the father of the writ petitioner died on 10.11.2009.

4. The writ petitioner claimed appointment under Dying in Harness Rules and when no decision was taken on the representation filed by the writ petitioner then he filed Writ Petition No.221/2017(S/S) which was disposed of on 01.02.2017 directing the District Magistrate, Nainital to take a decision on the application for compassionate appointment. The aforesaid application of the writ petitioner was rejected on 14.03.2017 against which WPSS No.3298 of 2017 was filed which was



allowed on 02.09.2024 against which the present special appeal has been filed by the District Magistrate, Nainital.

5. Learned counsel for the State submits that the father of the writ petitioner was not a regular employee and was working as Seasonal Collection Amin and the application filed by the writ petitioner for compassionate appointment was rightly rejected by the S.D.M. Dhari as there is no provision for appointment of a Seasonal employee under the Dying in Harness Rules.

6. He further submits that the regularization order was passed in the case of the father of the writ petitioner on 10.09.2010, however, before the said date the father of the writ petitioner died on 10.11.2009, as such, he cannot be treated to be a regular employee.

7. The contention of the counsel for the State is that as the father of the writ petitioner was not a regular employee, as such, his case was not covered under the definition of Government Servant as provided under the Dying in Harness Rules.

8. Per contra, learned counsel for the respondent/ writ petitioner submits that the father of the writ petitioner was appointed on 28.04.1994 by the S.D.M. Nainital in the pay-scale of ₹950-1500 and the



writ petition filed by the father of the petitioner and the 17 other similarly situated employees before the Allahabad High Court seeking regularization of their services was decided in terms of the judgment and order dated 16.07.1997 passed in Civil Misc. Writ Petition No.9557 of 1997, "Umrao Singh Rawat and Others Vs. State of U.P."

9. He further submits that the special appeal filed against the order passed in the case of the father of the petitioner was dismissed on 18.12.2009. The delay in considering the case of the father of the writ petitioner is attributable to the slackness on the part of the appellants and the appellants cannot take benefit of their own inaction and omission.

10. He further contends that the case of the petitioner's father was covered under the definition of Government Servant as provided under Rule 2(a)(iii) of the U.P. Recruitment of Dependents of Government Servant Dying in Harness Rule, 1974 wherein it is provided that "Government Servant" would mean a Government Servant employed in connection with the affairs of the State who though not regularly appointed had put in three years continuous service in regular vacancy in such employment.



11. We have heard learned counsel for the parties and perused the record.

12. The fact that the father of the writ petitioner was engaged as Seasonal Collection Amin in the year 1994 and the writ petition filed by him and other employees for regularization was decided on 30.07.1998 is not in dispute.

13. The writ petition filed by father of the writ petitioner was decided in terms of the judgment and order passed in Civil Misc. Writ Petition No.9557 of 1997, "Umrao Singh Rawat and Others Vs. State of U.P." The order dated 30.07.1998 passed in Civil Misc. Writ Petition No.36942/1997, "Ram Nath and Others Vs. State of U.P. and Others filed by father of the petitioner (Bhawan Singh Bisht) and 17 other employees reads as under:

"BY THE COURT

Heard counsel for the petitioner. The facts of this case are covered by my judgment in writ petition no.9557 of 1997 "Umrao Singh Rawat and Others Vs. State of U.P." decided on 16.7.1997. This petition is disposed of on the some terms and on the same directions as in the aforesaid writ petition.

Dt/30.7.1998"

14. The Allahabad High Court in the case of **Umrao Singh Rawat** (supra) has held as under:

"In the hill areas, as alleged in the petition, the Seasonal collection Amins are doing exactly the same work as the collection Amin, unlike in the plains.



Hence, there is nothing "Seasonal" about the work of Seasonal collection Amins. In fact, the District Magistrate, Nainital, has been repeatedly writing to the higher authorities in this connection vide annexures-1 and 2 to the writ petition. Similarly, the Seasonal collection peons are doing the same work as regular collection peons.

In view of the un-rebutted allegations in the petition, I am of the opinion that this petition deserves to be allowed. Since the petitioners have been performing the same work, as the regular collection Amin and regular collection peon, I direct that they shall be given the same salaries, allowances and other benefits and other facilities as regular collection Amins and collection peons, as the case may be, on the principle of equal pay for equal work. The State Government is further directed to take a decision of the recommendation of the District Magistrate, Nainital, for creation of posts, (copies of which are annexures-1 and 2 to the writ petition) expeditiously, and till then the services of the petitioners shall be continued without artificial break in service.

The petition is allowed. No order as to costs."

15. The services of the Seasonal Collection Amin and Seasonal Collection Peon was directed to be continued till a decision is taken by the State Government on the recommendation of the District Magistrate, Nainital. Special Appeal No.119 of 2008 filed against the decision dated 30.07.1998 (in case of writ petitioner's father) was dismissed by this Court on 18.12.2009 in terms of the order passed in Special Appeal No.118/2008 decided on the same date. The order passed in Special Appeal No.119 of 2008 reads as under:

"Heard learned counsel for the parties.

Learned counsel for the parties are agreed that the controversy raised in the instant appeal is identical



to the one adjudicated upon by this Court in **State of U.P. and others Vs. Puran Singh & others (Special Appeal No. 118 of 2008, decided on 18/12/2009)**.

In view of the above, the instant special appeal is disposed of in the same terms as Special Appeal No. 118 of 2008 decided on 18/12/2009."

The order passed in Special Appeal No.118/2008 reads as under:

"In view of the factual position noticed hereinabove, we are satisfied that the appellants having implemented the judgment in Umrao Singh Rawat's case (supra), and having acknowledged, that the controversy raised in the instant special appeal is identical to the one rendered in Umrao Singh Rawats case (supra), we are of the view that there is no justification whatsoever, at the hands of the appellants, to press the instant appeal. Having implemented the judgment rendered by the High Court at Allahabad in Umrao Singh Rawats case (supra), the appellants are bound to implement the judgment rendered in the writ petition filed by the respondents, which had been allowed by the High Court at Allahabad on 08/01/1998.

The instant special appeal is accordingly dismissed. The appellants are directed to implement the decision rendered by the learned Single Judge within three months from the date of receipt of a certified copy of this order."

16. The order dated 10.09.2010 (Annexure 3 to the writ petition) whereby the service of the father of the writ petitioner was regularized as Seasonal Collection Amin in the pay-scale ₹5200-20200 makes a mention of the decision dated 18.12.2009 passed by the High Court. A conjoint reading of the appointment order of the father of the petitioner dated 28.04.1994(Annexure No.1 to the writ petition) and regularization order dated 10.09.2010 (Annexure No.3



to the writ petition) leaves no room for doubt that the appellants had treated services of the father of the writ petitioner to be continuous and regular in nature. As such, now they cannot turn around and contend that the father of the writ petitioner being appointed on seasonal basis had not rendered continuous service. The Rule 2(a) of the U.P. Recruitment of Dependent of Government Servant Dying in Harness Rules, 1974 as applicable in the State of Uttarakhand reads as under:

"2(a) "Government servant" means Government servant employed in connection with the affairs of Uttar Pradesh who-

(i) Was permanent in such employment; or

(ii) though temporary had been regularly appointed in such employment; or

(iii) though not regularly appointed, had put in three years' continuous service in regular vacancy in such employment."

17. Learned Single Judge dealt with the entire issue and came to a conclusion that the case of the father of the writ petitioner would fall under Rule 2(a)(iii) of the Dying in Harness Rules and has recorded a finding to the said effect in paragraph no.12 to 16 which reads as under:

"12. Having heard the learned counsel for the parties and having gone through the material available on record, there is one point clear in the matter that when the Civil Misc. Writ Petition No.36942 of 1997 of the petitioners was allowed, the rights have been matured in favour of the petitioner's father, subject to



disposal of the Special Appeal. The Special Appeal was dismissed by the Division Bench of this Court vide order dated 18.12.2009 and accordingly, the rights have been matured in favour of the father of the petitioner. But for his father's unfortunate demise, petitioner's father was also entitled for the regularization as his father's co-petitioners of the Civil Misc. Writ Petition No.36942 of 1997 were regularized. The Rules, 1974 are beneficial piece of legislation and, therefore, the Rules should be construed liberally in favour of the children and family members of the deceased government servant. Had the father of the petitioner not died in between, the natural fall out would be that he would also be regularized as a regular Collection Amin with the respondent-department.

12. *Apart from this, from perusal of the Rules, 1974 as applicable upto date in the State of Uttarakhand, it is reflected that in Rule 2(a) "Government Servant" is defined. Rule 2(a) is reproduced below: -*

*"2. Definitions. -In these rules, unless the context otherwise requires,- (a) "Government Servant" means a Government servant employed in connection with the affairs of Uttar Pradesh who-
" (i) was permanent in such employment; or (ii) though temporary had been regularly appointed in such employment; or (iii) though not regularly appointed, had put in three years continuous service in regular vacancy in such employment."*

13. *From Sub-rule 2(a)(iii) of the Rules, 1974, it is clear that "Government Servant" means a Government Servant employed in connection with the affairs of State of Uttar Pradesh (read State of Uttarakhand), though, not regularly appointed, had put in three years continuous service in regular vacancy in such employment.*

14. *If looked into the issue involved in the present writ petition as per the definition of "Government Servant", the father of the petitioner is squarely covered in the definition of "Government Servant" given under Rule 2(a)(iii) of the Rules, 1974, as he has worked as a daily wager with the respondent department more than three years continuously against regular vacancy.*

15. *In this view of the matter too, there can be no impediment to the respondent/State to give compassionate appointment to the petitioner treating his deceased father a government servant.*

16. *Accordingly, this Court is of the opinion that the writ petition deserves to be allowed. Hence, the writ petition is allowed. The order dated 14.03.2017, passed by respondent no.2 is hereby quashed. A mandamus is issued to the respondent no.1*



commanding to give compassionate appointment to the petitioner under Dying in Harness Rules, 1974 on a suitable post as per his educational qualification."

18. The services of the father of the writ petitioner, being regularized in pursuance to the order passed by the writ court as affirmed in the special appeal, now cannot be questioned by the respondents stating that the services rendered were on seasonal basis.

19. In the backdrop of the above facts, we are of the considered view that the judgment and order passed by the learned Single Judge does not suffer from any illegality.

20. The appeal lacks merit and is dismissed.

21. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 22.05.2026

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