

(2013) 07 AHC CK 0215

Allahabad High Court

Case No: C.M.W.P. No. 39875 of 2006

Ramanand Singh Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: July 3, 2013

Citation: (2014) 2 ALJ 636 : (2013) 5 AWC 4980 : (2013) 3 UPLBEC 2354

Hon'ble Judges: Tarun Agarwala, J

Bench: Single Bench

Advocate: Shashi Kant Shukla, D.C. Yadau and Shailendra Singh, for the Appellant;

Final Decision: Dismissed

Judgement

Tarun Agarwala, J.

Heard the learned counsel for the petitioner and the learned standing counsel. The father of the petitioner was working as a Forester in various department and died-in-harness on 29th March, 2003. The petitioner, being the son, applied for appointment on compassionate grounds under the U.P. Recruitment of Dependents of Government Servants Dying-in-Harness Rules, 1974 (hereinafter referred to as the Rules of 1974). The application of the petitioner was considered and considering his requests and educational qualifications etc. the petitioner was given an appointment, by an order dated 4th June, 2004, on the post of Junior Clerk. The appointment was accepted by the petitioner without any protest and, based on the said appointment letter, the petitioner joined and started working. After almost 18 months, the petitioner moved a representation praying that he should be given an appointment on the post of forester. Based on this representation, the respondents amended the appointment letter by an order dated 17th March, 2006 and appointed the petitioner as a forester. When the mistake was realized by the respondents the order dated 17th March, 2006 was cancelled by an order dated 20th April, 2006. The petitioner, being aggrieved by the impugned order dated 20th April, 2006, has filed the present writ petition.

2. The only ground urged is, that no opportunity was given to the petitioner before passing the impugned order and, therefore, there has been a violation of the principles of natural justice.
3. Having heard the learned counsel for the parties, the Court is of the opinion that the petitioner is not entitled for any relief and, the reason is not far to see. The petitioner was appointed as a Junior Clerk on the basis of his educational qualification under the Rules of 1974.
4. The Supreme Court in the case of [State of Rajasthan Vs. Umrao Singh](#), has held that once an appointment is made and is accepted, the claim under the Rules of 1974 comes to an end and cannot be invoked. The Supreme Court again reiterated in [Pankaj Swami Vs. Vice Chancellor, Ch. Charan Singh University and Others](#), and [I.G. \(Karmik\) and Others Vs. Prahalad Mani Tripathi](#), and held that once an appointment is accepted under the Rules of 1974 it is not possible for the authority to consider the claim of the employee on another post.
5. In the light of the aforesaid, the Court finds that once an appointment has been given under the Rules of 1974, which was duly accepted by the petitioner without any protest, no further representation for appointment on another post could be considered by the respondents.
6. Consequently, the respondents were justified in rectifying their error and cancelling the order dated 17th March, 2006. No doubt while cancelling the order dated 17th March, 2006 no notice or opportunity was given to the petitioner but, in the given circumstances, equity is not in favour of the petitioner and, consequently, the Court refuses to interfere in the impugned order, which is correct and legal and requires no interference by a writ Court. The writ petition fails and is dismissed.