

**Service Law- Compassionate Appointment - If any appointment is provided subject to any condition and non-fulfillment thereof may cause cancellation of appointment would not be proper in a case where appointment under Dying-in-Harness Rule has been provided**

At the outset, I am in agreement with the contentions of opposite party that the required condition for appropriate post should be fulfilled by the candidate holding such post and there cannot be any compromise. This Court may not relax such condition, inasmuch as, this is a domain of concerning authority to fix mandatory condition for particular post. Therefore, I do not interfere the impugned order dated 22.9.2021 (Annexure 1) as far as it provides that on account of non-obtaining the required condition the petitioner would not be eligible to hold the post of Junior Assistant.

However, the another relevant issue in the present case is that the appointment was provided to the petitioner under Dying-in-Harness Rule as the bread earner of the family died in- harness and on account of that demise the family of the deceased employee has suffered a lot, therefore, it had been rightly considered by the competent authority to provide any appropriate appointment to the petitioner under Dying-in-Harness Rule on the compassionate basis. The law stipulates that the appointment under Dying-in-Harness Rule is of permanent nature and as per letter and spirit of the particular rule any suitable appointment on compassionate ground is provided to one eligible member of the family of deceased employee at the earliest so that sufferance and distress of the family could be met out.

Therefore, if any appointment is provided subject to any condition and non-fulfillment thereof may cause cancellation of appointment would not be proper in a case where appointment under Dying-in-Harness Rule has been provided. **[Durgesh Srivastava vs. State of U.P. , 2021(7) ADJ 146(LB)]**