



2026:AHC:23451

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 10554 of 2024

Deepak Kharwar

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Harish Chandra, Vikash Kumar Tiwari
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Vikas Kumar Tiwari, learned counsel for the writ petitioner and Sri S.K. Pal, learned Additional Chief Standing Counsel for the State.
2. Since counter and rejoinder affidavits have been exchanged between the parties and with the consent of the parties, the writ petition is being decided at the admission stage.
3. The case of the writ petitioner is that his father namely, Sri Lalji Prasad (since deceased) was appointed as State Tax Officer who superannuated 31.01.2017. According to the writ petitioner, the deceased left behind the following heirs, the writ petitioner, Kusum Lata (sister), Deepa (daughter), Kiran (daughter), Jay Kumar (son), Saroj Devi (daughter-in-law), Siddhi and Riddhi (grand daughter), Deepak, Sonam Devi (daughter-in-law), Manoj (son). The writ petitioner claims himself to be physically disabled and staked his claim for family pension. Since the same was not acceded to so the writ petitioner preferred the present writ petition with a direction to the Deputy Commissioner (Administration) State Tax, Gorakhpur to accord family pension under handicapped quota in view of the Government Order dated 24.08.1966 as amended by way of New Family Pension Scheme, 1965. However, during the pendency of the writ petition, the claim set up by the writ petitioner came to be rejected on 1st April, 2023 by the Deputy Commissioner (Administration), State Tax, Gorakhpur which was challenged by way of amendment. The amendment application was allowed.

4. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained for the simple reason that the writ petitioner happens to be physically disabled person as in this regard a certificate came to be issued by the competent authority on 28.06.2007 as also a disability certificate was also issued on 01.06.2017. He submits that the writ petitioner is entitled for family pension might be he is married in that regard. Submission is also to the extent that merely because there had been no disclosure by the deceased about the physical disability of the writ petitioner in the nomination column or in service record, the same would not be a ground to denude the said benefits particularly when the said benefits stand accorded by virtue of a beneficial legislation by way of the Government Orders. Reliance has been placed upon a decision of a Coordinate Bench in **Mohd. Jamil Vs. Managing Director, Kanpur Electricity Supply Company (KESCO) and 2 others, 2024 Law Suit (All) 1175.**

5. Sri S.K. Pal, learned Additional Chief Standing Counsel while countering the submission so made by the learned counsel for the writ petitioner has submitted that the said medical certificate showing the disability of the writ petitioner probably have not been placed before the authority as the order itself shows that the deceased had not disclosed the fact that the writ petitioner happens to be a disabled person at the time of submission of the papers for pension. He, however, submits that the writ petitioner happens to be a married man and he can sustain himself.

6. I have heard the submission so made across the bar and perused the record.

7. The bone of contention between the parties is whether the writ petitioner is entitled to be granted family pension based upon the disability. Though the writ petitioner claims that a certificate showing the disability of 80% have been issued by the competent authority on 28.06.2007 followed by another on 01.06.2017 but from the perusal of the order impugned, it is not clear whether it is not apparent that the said certificate was placed before the authority. More so, the order impugned

recites the fact that the deceased have not disclosed the fact that his son namely writ petitioner was disabled. Though reliance has been placed upon the Government Order dated 27.10.2016 and another Government Orders so as to contend that the writ petitioner despite his marriage would be entitled for the payment of family pension but this Court in view of the intervening facts and circumstances, it is not required to go into the said issue, however, rather to the contrary it is for the writ petitioner to approach the second respondent raising his claim which shall be decided strictly in accordance with law.

8. Accordingly, the writ petition stands **disposed of** directing the writ petitioner to prefer a comprehensive representation along with self attested copy of the writ petition, certified copy of the order and disability certificate before the second respondent, Deputy Commissioner (Administration), State Tax, Gorakhpur by **27.02.2026** who shall on the said motion thereafter, proceed to examine the case of the writ petitioner while conducting a thorough inquiry about the genuineness and the veracity of the said disability certificate and pass an order within a period further of two months. The order dated 01.04.2023 passed by the second respondent shall be subject to the further orders to be passed in that regard.

(Vikas Budhwar,J.)

February 3, 2026

Rajesh