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OA No. 1017/2002

New Delhi this the 17th day of October, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. Har Prasad S/o late Sh. Chandra Lal,~  
Ex-Postal Asstt., Agra-I.
  2. Smt. Raj Kumari W/o Har Prashad,  
R/o Ravi Dass Nagar,  
Chakki Pat., Agra-3.
- Applicants

(By Advocate Shri D.P. Sharma)

-versus-

1. Union of India,  
through Secretary,  
Ministry of Communication,  
Department of Posts,  
New Delhi.
2. The Chief Postmaster General,  
U.P. Circle, Lucknow.
3. The Senior Superintendent of Post Offices,  
Agra Division, Agra.

### -Respondents

(By Advocate Shri S. Mohd. Arif)

O R D E R (ORAL)

- By Mr. Shanker Raju, Member (J):

Applicant No.1 while working as Postal Assistant lost his eye sight and was retired on invalidation w.e.f. 8.9.1997. At the time of retirement the family consisted of his wife, three sons and two daughters. Wife of applicant died on 15.5.1998 and as due to lost of vision it was difficult for applicant to pull on in the life, he married to one Raj Kumari, applicant No.2, under Hindu-Marriages Act and the marriage stood registered as per law.

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appointment of his son, viz., Sh. Vijay Singh. Subsequently on an application made on 23.7.2001 stating that his son Sh. Vijay Singh would not care applicant No.1 made a claim for consideration for compassionate appointment of his wife, i.e., applicant No.2. In pursuance thereof vide letter dated 23.10.2001 applicant No.2 was asked to give the requisite information and the claim was rejected vide letter dated 1.11.2001, with the remarks that status of applicant No.2, as wife of applicant No.1 is not clear as per the service book of the official.

3. Learned counsel for applicants states that service book of applicant No.1 was maintained till the date of his retirement on invalidation, i.e., in the year 1997, whereas marriage had taken place subsequently. As the status of applicant No.2 as wife of applicant No.1 is not disputed and the marriage has been registered by the Registrar of Hindu Marriages. As it is a valid and legal marriage, rejection of request of applicant No.2 is not as per rules and law.

4. On the other hand, learned counsel of respondents objected to the delay in preferring the claim and also on the ground that applicant No.1 has made the request in an unusual manner by first making request for consideration for compassionate appointment of his son, then switching over to consideration of his wife.

5. I have carefully considered the rival contentions of the parties and perused the material on

record.

6. In so far as limitation is concerned, as the respondents themselves rejected the claim of applicant No.2 for compassionate appointment only on 1.11.2001, the present OA filed on 3.4.2002 is well within the limitation, as stipulated under Section 21 of the Administrative Tribunals Act, 1985. Accordingly, the objection regarding limitation is over-ruled.

7. On merits also, the ground of rejection that status of applicant No.2 as wife is not clear as per the service book cannot be countenanced, as after the death of applicant No.1's first wife on 15.5.1998, applicant No.1 had married applicant No.2 according to the Hindu Rights and the marriage was duly registered before the Registrar of Marriages is a legal and valid marriage. It was the rejection that the service book did not contain the status of applicant No.2 as wife of applicant No.1 is illogical, as Service Book was maintained upto 1997, whereas marriage had taken place subsequently.

8. In this view of the matter, I am of the considered view that consideration was improper and cannot be sustained in law. Accordingly, OA is disposed of with a direction to respondents to re-consider the claim of applicant No.2 for compassionate appointment as per the Scheme and as per her eligibility, keeping in view the status of applicant No.2 as wife of applicant No.1 as per the marriage certificate. This exercise is to be done by passing a detailed and speaking order, within a period of

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three months from the date of receipt of a copy of this  
order. No costs.

S. Raju

(Shanker Raju)  
Member (J)

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