

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 10th day of August, 2001.

Original Application No.890 of 2001.

CORAM :-

Hon'ble Mr. Rafiquddin, J.M.

Pankaj Kumar Son of Sri Ravindra Nath,  
Upadhyay, C/o Shri Deva Pal Sharma,  
Resident of Village Kasimbad,  
District Aligarh.

(Sri VK Srivastava, Advocate)

..... Applicant

Versus

1. Union of India through Secretary to  
The Government, Post and Telegraph  
Department, New Delhi.
2. Senior Superintendent Railway Mail Service,  
K.P. Khand, Kanpur (U.P.)
3. Smt. Shailesh Daughter of Sri Harihar Nath  
Pandey, Wife of Sri Suresh Chandra (alleged  
wife of Late Sri Ravindra Nath Upadhyaya)  
Sub Record Office, R.M.S. Aligarh.
4. Sub Record Officer R.M.S.  
K.P. Khand, Aligarh.

(Sri R.C. Joshi, Advocate)

.... Respondents

ORDER (Oral)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant claims that he is the son of Late Ravindra Nath Upadhyay, who died on 12-12-1990 while working as Sorting Assistant in the R.M.S. Aligarh in harness. The applicant had filed earlier an OA No.126/201 for issue of a direction to the respondents to provide him appointment on compassionate ground. This Tribunal vide order dated 15-3-2001 disposed of the OA with the direction to the respondent no.2 to consider and decide the representation of the applicant dated 28-9-1998. In pursuance of the aforesaid order

the representation of the applicant has been decided by the respondent no.2 vide the impugned order dated 06-6-2001. It indicates that since Smt. Shailesh, widow of Late ~~late~~ Ravindra Nath Upadhyay (Respondent No.3) has already been given appointment on 29-11-1991 in Group 'D' post, the applicant is not entitled for any appointment.

2. By means of the present OA the applicant has sought quashing of the letter dated 06-6-2001 and a direction to the respondent nos. 1 and 2 to recover the amount of dues of Late Ravindra Nath Upadhyay paid to respondent no.3 and pay the same to the applicant after cancelling her appointment dated 29-11-1991 and for providing appointment on compassionate ground to the applicant under dying in harness rules.

3. It appears that the case of the applicant in brief is that respondent no.3 had played a fraud in getting the employment on compassionate ground because the wife of Late Ravindra Nath Upadhyay was Smt. Pavitra Devi who died during the life time of his father and his father never married again. It is obvious that the applicant has challenged the status of respondent no.3 as legally wedded wife of his late father. This Tribunal, however, cannot decide this dispute under the present proceedings. It is proper that the applicant should obtain a declaration regarding status of respondent no.3 from the competent Civil Court before approaching this Tribunal seeking appointment on compassionate ground being legal heirs of the deceased Ravindra Nath Upadhyay. In the absence of the said

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declaration, the Tribunal cannot decide this dispute under the present proceedings. Consequently it is not necessary to issue notice to the respondents and the OA is dismissed in limine at the admission stage in the light of observations mentioned above. No costs.

*Ravinder*  
Member (J)

Dube/