

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

ORIGINAL APPLICATION NO.305 OF 2004

ALLAHABAD THIS THE 15th DAY OF feb. 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

Sunil Kumar Gupta,
S/o late Sita Ram Gupta,
Aged about 23 years, r/o
Bangwan Kalan Block, Talbehat,
District Lalitpur.

.....Applicant

(By Advocate: Sri K.P. Singh)

Versus.

1. Union of India through Secretary Ministry of Posts and Telegraph, New Delhi.
2. The Chief Post Master General,
U.P Lucknow.
3. The Post Master General, Agra Region, Agra.
4. The Senior Superintendent of Post Offices,
Jhansi Division, Jhansi.

.....Respondents

(By Advocate: Sri S. Singh)

ORDER

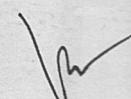
The applicant, Sunil Kumar Gupta, S/o late Sita Ram Gupta is praying for quashing the order dated 24.9.2003 (Annexure 1) by which Senior Superintendent of Post Offices, Jhansi Division, Jhansi declined to give him compassionate appointment on the death of his father. There is no dispute that applicant's father was employed as Chaukidar in the Postal Department and had attained a temporary status w.e.f. 29.11.1989. Before he could be regularised in Class IV, he died on 28.12.1998, a little before his retirement. The applicant claims him to be adopted son of late Sita Ram Gupta. He represented on 19.1.1999 to Senior Superintendent of Post Offices, Jhansi with a copy to the Post Master General, Lucknow Circle

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(Annexure 6) followed by reminder dated 8.4.2000 (Annexure 7) and letter dated 28.8.2003 (Annexure 8) to the Post Master General for appointing him under Dying In Harness Rules. This request has been turned down vide letter dated 24.9.2003 (Annexure 1) saying that rules/orders do not provide for compassionate appointment of the dependent of employee with temporary status only.

2. Relying on a decision dated 7.7.1993 of Madras Bench of this Tribunal in **K. Pattammal Vs. Union of India and others, (1994) 26 Administrative Tribunals Cases 290**, the applicant has staked his claim for compassionate appointment saying that the respondents be directed to first regularise the services of his father and then to appoint him in Class IV, on compassionate grounds.
3. The respondents have contested the claim by filing the written reply. According to them, late Sri Sita Ram Gupta was a casual worker with temporary status only and he was ever regularised in Group 'D', so the applicant, even if, he is proved to be adopted son, is not entitled to compassionate appointment. They have also challenged the alleged adoption on the ground that late Sri Sita Ram Gupta never intimated the department about the factum of adoption, nor the deed appeared to be a registered one. It is reiterated in para 8 of the reply that the dependent of employee like late Sri Sita Ram Gupta paid from contingent found, was not entitled to compassionate appointment.
4. In rejoinder, the applicant has clearly stated that adoption deed is registered one and there can be no dispute about the factum of his adoption by late Sri Sita Ram Gupta.

5. I have heard Sri K.P. Singh, learned counsel for the applicant and Sri S. Singh, learned counsel for the respondents. This much appears to be an admitted position that the facility of giving



compassionate appointment to the dependents of an employee with temporary status is not admissible. It is for this reason that the applicant has prayed that the respondents should be directed to first posthumously regularise the services of late Sri Sita Ram Gupta and then to give him compassionate appointment.

6. Sri K.P. Singh has relied on **K. Pattammal case (supra)**, so as to support his contentions that there can be posthumous regularisation and thereafter there can be consideration of compassionate appointment. According to him, father of the applicant served the department for about 7-8 years with temporary status and respondents were totally unjustified in not considering his regularisation in Group 'D' inspite of his representation. According to him, the facts of case in hand are similar to the facts in **K. Pattammal (supra)** and so the reliefs claimed by the applicant, should be granted.

7. Sri S. Singh, learned counsel for the respondents has argued that the claim for posthumous regularisation of service of late Sri Sita Ram Gupta and thereafter for considering the compassionate appointment of the applicant, is illfounded. He says that the facts before Madras Bench of this Tribunal were totally different as there the dependent of deceased employee was earlier given appointment against a regular vacancy but subsequently the same was discontinued.

8. I have considered the respective submissions in the light of material on record and also in the light of case cited by Sri K.P. Singh. In case in hand, there is nothing on record to show that there were vacancies in Group 'D' in between 1991 to December 1998 and applicant's case could have been considered for regularisation in order of seniority. No such clear cut averments have been made in the O.A. that inspite of available vacancies against which the Sita

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Ram could have been regularised, his case was not considered and the matter was kept at that till his death. So I am of the view that no such posthumous regularisation can be directed so as to consider the case of the applicant for compassionate appointment. It all depends on the facts and circumstances of the particular case as to whether posthumous regularisation of an employee with temporary status could be directed or not? The facts of the case, in hand, do not justify this course. In the result, the case for compassionate appointment will also not be there as it is admitted position that dependent of such employee with temporary status, is not entitled to compassionate appointment on death of such employee in service.

9. In view of what has been found in the preceding paragraph, there appears to be no need for discussing the factum of adoption. The O.A. appears to be devoid of merits and deserves to be dismissed. It is accordingly dismissed with no order as to costs.

1, Jan " 15.2.07
Vice-Chairman.

Manish/-