

**Reserved on 15.09.2021**  
**Pronounced on 17.09.2021**

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH**  
**ALLAHABAD.**

**Original Application No. 330/189/2008**

**Hon'ble Ms. Pratima K Gupta, Member (J)**

1. Santosh Kumar Sharma, Son of Late Shambhu Nath Sharma, (Ex-Chaukidar, Suvansa, under Divisional Control, P.M.G. Allahabad). Resident of Village and Post Pune Kharag Rai, District Pratapgarh.
2. Shakuntala Devi, widow of Late Shambhu Nath Sharma, (Ex-Chaukidar, Suvansa under Divisional Control P.M.G. Allahabad) Resident of Village & Post Kharag Rai, District-Pratapgrah.

. . .Applicants

By Adv : Shri H.C. Shukla

**V E R S U S**

1. Union of India, through its Secretary, Ministry of Communication, Department of Post, Sansad Marg, South Block, New Delhi.
2. The Director General (Posts), Dak Bhawan, Sansad Marg, New Delhi.
3. The Chief Post Master General, U.P. Circle, Lucknow.
4. Post Master General, Allahabad Region, Allahabad.

. . .Respondents

By Adv: Shri Himanshu Singh

**O R D E R**

**By Hon'ble Ms. Pratima K Gupta, Member (Judicial)**

This original application has been filed against the order dated 11.03.2007 whereby the respondent no.3 the

representation of the applicant dated 18.01.2007 seeking consideration for compassionate appointment has been rejected.

2. The brief facts according to the applicant are that the deceased Shri Shambhu Nath Sharma was appointed on 06.10.1983 as Chowkidar in the respondent department. He died on 07.12.1994 on duty. Shri Shambhu Nath Sharma passed away living behind 8 dependents including the present applicants. The applicant no.1 joined the respondents as Group 'D' employee on 18.11.1999 on daily wages. The applicant represented on 20.11.2006 for seeking compassionate appointment. Accordingly, the impugned order dated 14.03.2007 was issued.

3. Counter affidavit has been filed by the respondents. In the counter affidavit, it is stated that the compassionate appointment scheme is applicable to the dependent family member of a government servant who dies in service or retires on medical grounds. It is stated that the father of the applicant Shri Sambhu Nath Sharma was a Contingent Paid Chowkidar Suwansa. It is also stated that the post of Contingent Paid Chowkidar has been declared dying by the respondents, no action can be taken for compassionate appointment. It is further stated that the applicant no.1 was engaged by Sub Divisional Inspector, Patti on 15.11.1999 on daily wages @ 35/-per day to guard the Suwansa, Post Office, Pratapgarh. He was engaged at that time on the responsibility of Girija Shankar Tiwari, EDR,

NAUDERA, which was not covered by the departmental rules. This irregularity come to the notice of the Sub Post Master, Suwansa and the Sub Divisional Inspector, Patti was ordered to terminate the arrangement vide letter dated 06.10.2006 and accordingly the applicant was terminated on 19.01.2007. The applicant came in OA No.1413 of 2006 against the termination order dated 19.01.2007. The same was decided by this Tribunal. Copy is annexed as Annexure CA-1, 2 respectively to this OA. The same was dismissed for want of jurisdiction. Last para of Annexure CA-2 reads as under: -

*4. That in reply to the contents of paragraphs No.2 to 4 of the affidavit filed in support of the amendment application, it is submitted that in view of the facts and circumstances stated in main counter affidavit filed by the respondent department, the applicant is not entitled to get any relief. The representation of the application was rejected as per departmental rules vide order dated 14.03.2007 passed by Post Master General, Allahabad, hence the amendment application filed by the applicant is liable to be rejected. However, it is further submitted that the cause of action arose at Pratapgarh District, which is under jurisdiction of Lucknow Bench of this Hon'ble Tribunal, as such the present Original Application is not maintainable before this Hon'ble Tribunal at Allahabad.*

*In view of aforesaid facts and circumstances, the present original application is liable to be dismissed on the ground of territorial jurisdiction. In this regard a photocopy order/judgment dated 18.12.2007 passed by Hon'ble High Court, Allahabad in Writ Petition No.60852 of 2007 (Tarun Kumar Vs. UOI & Others) as well as order/judgment dated 02.06.2009 passed by this Hon'ble Tribunal in Original Application No.602 of 2009 (Saroj Kumar Upadhyaya Vs. UOI & Others) are annexed herewith and marked as Annexure-CA-1 & CA-2 respectively to this counter affidavit. However, the respondents may also refer a decision in a case (Rajendra Kumar Mishra Vs. UOI & Others) reported in*

*(2005) I UPLBEC page 108 passed by full Bench of this Hon'ble Tribunal.*

4. Heard Shri H.C. Shukla, learned counsel for the applicant and Shri Himanshu Singh, learned counsel for the respondents and perused the records.

5. The learned counsel for the applicant has filed written submissions in court which are taken on record. There is nothing to add on facts beyond the original application. The applicant has raised the following grounds: -

(i) The deceased father of the employee Shri Sambhu Nath Sharma was shown as temporary employee with the respondent whose services should have been regularised in terms of circular dated 12.04.1991 (Annexure RR-6).

(ii) He further submits that the case of the deceased employee Shri Sambhu Nath Sharma is covered under Post & Telegraphs Ministerial Manual Establishment Rule 154(a). Lastly, he has prayed that the case of the deceased Shri Sambhu Nath Sharma is covered under the notification of Government of India, Office Memorandum No. 2/4/1987 PIC dated 14.04.1987 which states that a government servant who retired from service on attaining the age of superannuation. According to the applicant the service of Late Shri Sambhu Nath Sharma were illegally and arbitrarily not regularised though he was covered by all the aforesaid rules.

6. Learned counsel for the respondents has argued that the impugned order issued by the respondents is correct and as per rules as the applicant no.1 cannot be considered for compassionate appointment because the father of the applicant was not a regular employee with the respondents and there is no provision for compassionate appointment to the dependent of a casual labour/contingent paid worker. It is further stated that in the impugned order the father of the applicant was being a contingent paid worker. No retrieval benefits were admissible to his dependent.

7. The counsel for the applicant has relied on the following judgments:-

- a) A Registered Society Vs. Union of India and Others, J.T. 1999(5) SC 237.
- b) State of Haryana Vs. Piara Singh And others, (1992) SCC 118.
- c) N. Nagendra Rao and Company Vs. State of Andhra Pradesh, AIR 1994 SC 2663
- d) East Coast Railway and Another Vs. Mahadev Appa Rao and others.
- e) L. Chandra Kumar Vs. Union of India, AIR 1997 SC 1125.

None of the judgments come to rescue of the applicant as none of the judgments deal with compassionate appointment. The applicant further referred to the case of Shyam Lal Shukla in OA No.1626 of 2005 wherein the applicant Shyam Lal Shukla has

been granted regularization in terms of the temporary status scheme 1991 which are not the facts of the present original application.

8. The undisputed facts are that the father of the applicant was a contingent paid Group 'D' employee with the office of the respondents. Though it is unfortunate that he was never regularised instead of their being a scheme and rules to that effect and the OMs to support the case of the deceased, however, in view of the fact that the deceased Shri Sambhu Nath Shukla father of the applicant was a contingent paid employee and the compassionate appointment as a welfare scheme is only applicable to the dependents of permanent/regular employees.

9. In view of the above, no case is made out by the applicant I am not able to interfere in the matter. The original application is dismissed with no order as to costs.

**(Pratima K Gupta)**  
Member (Judicial)

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