

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 11<sup>th</sup> day of August, 2000.

Original Application no. 1436 of 1994.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member  
Hon'ble Mr. M.P. Singh, Administrative Member

Daya Narain (Now Deceased)

1. Jagat Narain	All sons of Sri Daya Narain Srivastava
2. Prem Narain	
3. Kripa Narain	
4. Om Narain	

All residents of 104/315 Sisamau Kanpur  
Distt. Kanpur Nagar.

... Applicants

C/As Sri M.P. Srivastava

Versus

1. The Union of India through the Post Master General, G.P.O. Building Lucknow.
2. The Senior Superintendent of Post Offices Head Post Office, Kanpur Nagar.

... Respondents

Ors Sri Km. Sadhana Srivastava.

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ORDER

Hon'ble Mr. M.P. Singh, Member-A

The applicants have filed this OA for making the payment of GPF, Gratuity and Pension etc.

2. The brief facts of the case are that the Late applicants' father /Sri D.N. Srivastava was appointed as clerk in the office of the respondents in the year 1943. By order dated 22.01.1964, the petitioner was suspended pending enquiry and the charges levelled a <sup>were</sup> against him/ that he had committed an embezzlement of Govt. money. That in pursuance of the aforesaid charges an FIR was lodged against the applicants' father under section 409 of the IPC. It appears that 2 parallel proceedings were going on against the applicant's father late Shri D.N. Srivastava, one the departmental enquiry and the other criminal proceedings. According to two proceedings the applicant's <sup>were</sup> for one and the same charges cannot be legally initiated. In the case of departmental enquiry the applicants' father's services were terminated and he was dismissed from service on 07.11.1967. An appeal was also preferred against the order dated 07.11.67. The criminal proceedings which <sup>were</sup> initiated against the applicant's father ended in acquittal by the Hon'ble High Court of Allahabad vide its judgment in the year 1975. The judgment which was delivered in the year 1975 consisted of only five charges levelled against him. As regard the 6th charge is concerned the applicant's father was finally acquitted on 10.01.94. The applicant's father died on 21.01.1994. The case of the applicant is

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that both the departmental proceedings as well as proceedings in criminal court were based on the same evidence. When the charges in the criminal courts were not proved, he should have been given the same benefit of acquittal in the departmental enquiry. He was, therefore, entitled to get his pension, gratuity GPFT and other consequential benefits for which he was he was entitled. Despite the ~~repeated~~ representations and verbal requests made by the Applicants the Respondents have turned deaf <sup>ear</sup> to the request of the applicant. Aggrieved by this they have filed this OA for seeking the following reliefs:-

- i. issue a writ or direction or order in the nature of Mandamus directing the respondents to pay GPF Gratuity pension and other consequential benefits by treating the petitioners' father as to be in continuous service from the date of suspension till the date of retirement from service.
- ii. that the petitioners be declared as a legal representative and successor of the deceased father of the petitioners and further the salary etc. be paid to the petitioners from 7.11.67 till 1983 the date of his regular retirement in the year 1983 and further till his death i.e. upto 22.1.94 the petitioners should be allowed the pension of his father and compensation if any properly under law.
3. The respondents in their reply have stated that Chauki Jarib Post Office was managed by one Sub Post Master and 5 clerks. Late Sri D.N. Srivastava

was Sub Post Master with effect from 27.7.59 to 28.6.62 and as Saving Bank clerk from 29.6.62 to 31.3.63 and again from 1.6.63 to 31.7.63. A case of Saving Bank fraud came into light in January 1964. There were 32 Saving Bank accounts involved in the permanent misappropriation and 7 Saving Bank Accounts in temporary misappropriation. Late Shri D.N. Srivastava, was one of the main offender in this case. He was placed under suspension w.e.f. 22.01.64. The case was reported to the local police on 28.01.64 under sections 120, 409, 467, 471 of IPC. All the 38 Saving Bank Accounts were reported for investigation to the police and later on transferred to the CB CID UP at Kanpur. Late Shri D.N. Srivastava was convicted by trial court. However, he filed an appeal in the High Court of Allahabad against the order of trial Court and was acquitted by the High Court.

4. The departmental proceeding initiated in respect of misappropriation in 2 Saving Banks Accounts. These cases were not with the police for investigation. Late Sri D.N. Srivastava, was dismissed from service as a result of the departmental proceedings. Late Shri D.N. Srivastava, then preferred an appeal to the Director Postal Services Lucknow, who rejected his appeal vide order dated 22.04.69. According to the respondents the departmental proceedings ~~were~~ conducted for the cases ~~of~~ which were not under investigation by the police and therefore, parallel enquiry on the same act and facts was not made. Late Shri D.N. Srivastava, was dismissed from service after holding an enquiry. Hence, no claim

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exist in favour of the applicant as it was not justified for dismissed official. In view of the foregoing the OA is wholly devoid of merit and is liable to be dismissed and the applicants are not entitled to any relief.

5. Heard learned counsel for the rival contesting parties and perused the record.

6. It is observed from the para 8 (a) that the applicant has sought relief for the payment of GPF Gratuity, pension and other consequential benefits by treating the applicant's father as in continuous service from the date of suspension till the date of his retirement from service. They have further sought relief that the applicants be declared as legal representatives and successors of the deceased father of the applicants and further the salary etc be paid to the applicants from 7.11.67 till 1983 and retiral benefit till 1983. It is an admitted fact that the applicant's father was dismissed from service vide order dated 07.11.67. Since the ~~services of the~~ <sup>sub</sup> applicant's father had been dismissed, he is not entitled for any retiral benefits under rules. More over the applicants have not challenged the ~~dismissal~~ <sup>order passed by the</sup> appointing authority. Unless the order of the dismissal of the applicant's father is challenged and set aside, he is not entitled for any relief sought for in para 8 of the OA.



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7. In view of the reasons mentioned above the applicants' are not entitled for any relief and the OA is liable to be dismissed as devoid of merit. The OA is dismissed accordingly.

8. There shall be no order as to costs.

*MBM*  
Member-A

*Secy*  
Member-J

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