

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 6th day of June 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

O.A. No. 435 of 1999.

1. Smt. Chameli Devi w/o Late Sri Ganesh Prasad-II.
2. Km. Preeti d/o Late Sri Ganesh Prasad-II.

Both resident of EWS-II, 9/67, A.D.A. Colony, Preetamnager,
Allahabad..... Applicants.

Counsel for applicants : Sri A. Kumar.

Versus

1. Union of India through Chief Post Master General, Lucknow.
2. Post Master General, Allahabad.
3. Senior Superintendent of Post Offices, Allahabad Division,
Allahabad..... Respondents.

Counsel for respondents : Sri D.S. Shukla & Sri G.R. Gupta.

ORDER (ORAL)

BY MR. S. DAYAL, A.M.

This application has been filed for setting aside the impugned letter dated 22.4.97. A direction is sought to the respondents for appointment to the applicant on compassionate ground to a suitable post vice the father of the applicant No. 2 and husband of applicant No.1.

2. The case of the applicants is that Sri Ganesh Prasad-II husband of Applicant No.1, was working as Assistant Post Master in Head Post Office, Allahabad, and died in harness on 20.8.91. It is claimed that the deceased ^{prior} to his death, had adopted the applicant No.2 on 1.4.91 according to custom and tradition. Applicant No.1, after the death of her husband, informed the Respondent No.3 that she was eligible for appointment on compassionate ground but as her health was not good, she wanted her adopted daughter to be given appointment after four years when she attain the age of majority. The respondents had accepted this request by letter dated 00.2.92. The applicant No.2 had passed high school examination in 1993 and intermediate




examination in 1995 and had acquired proficiency in typing. It is mentioned by the applicant that while adoption ceremony was held on 1.4.91, the adoption was registered on 8.8.96. The compassionate appointment of the applicant was rejected by letter dated 17.3.97 of the Post Master General. Thereafter an appeal was preferred by the applicant No.1 on 00.7.97 which has still not been decided.

3. I have heard the arguments of Sri A.Kumar for applicant and Sri D.S. Shukla for respondents.

4. Counsel for the applicant has stated that the ground on which the case of the applicant was rejected by the competent authority by letter dated 22.4.97 was not correct. He has, in this connection, placed reliance on the case of Sawan Ram Vs. Mst. Kalawanti & others AIR 1967 SC 1761 in which it has been held that adoption by a widow would hold good against the husband also. Counsel for applicant has also placed before us the case of Akshay Kumar S. Labantray Vs. Sharda Dai and her legal representatives in which reliance has been placed on the case of Apex court in holding that son adopted by widow is also son of deceased husband and was entitled to all right of a son.

5. Since the appeal of the applicant addressed to the Director General of Post Offices made in July 1997 is still pending, it would be appropriate that the issue of compassionate appointment be decided by the respondents on the appeal of the Applicant No.1 in a time bound manner.

6. Counsel for the respondent has urged that the case is more than 11 years old and should be rejected as time barred. I find that the applicant has sought condonation of delay. The appeal was filed in July 97 and the O.A. has been filed in April 1999. Since the appeal filed by the Applicant in July 97 is still not decided by the respondents and the applicant in her ignorance has addressed letters to the Minister in Aug. 1998



and waited for a response, it would be inequitable to punish the applicant by rejecting this O.A. on the ground of limitation when the respondents have not decided the appeal of the applicant against the order of rejection of compassionate appointment of her adopted daughter. Therefore, the delay is condoned and the O.A. is considered on merits.

7. At this juncture, it would be appropriate if the competent authorities respondents are directed to decide the appeal preferred to Director General, Posts, New Delhi by a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. It is also provided that they shall also hear the applicant before deciding the appeal.

No order as to costs.



A.M.

Asthana/
7.6.02

12/12/02

Hon Mr Justice R.R.K. Trivedi, VC

Shri D.S. Shukla for the respondents.

By this MA 4162/02 the respondents have prayed for further 3 months time to decide the appeal of the applicant. This Tribunal vide order dated 6.6.02 passed in OA 435/99 directed respondents to decide the appeal of the applicant within a period of 3 months. The period of 3 months have expired ~~on~~ in September 2002. MA 4162/02 has been filed on 11/10/02 praying for further time. 2 months have already passed, which have been availed by the respondents. Hence, this MA is disposed of granting one month's time to pass orders on the appeal of the applicant. MA 4162/02 is disposed of accordingly.

P
VC

for.