

(8)

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR.A.K. GAUR , MEMBER (J).

Original Application Number. 1331 OF 2006.

ALLAHABAD this the 5 day of 12 , 2008.

Harvind Singh, S/o Late Bhanu Pratap Singh, R/o Village- Pipra Raipur,
P.O. Raipur, Tehsil- Talbehata, District- Lalitpur.

.....Applicant.

VERSUS

1. Union of India through Secretary of Post and Telegraph Department, New Delhi.
2. Chief Post Master General, Uttar Pradesh Circle, Lucknow.
3. Additional Director, Post Offices (Recruitment), Office of Chief Post Master General, Uttar Pradesh Circle, Lucknow.
4. Senior Superintendent Post Offices, Jhansi Division, Jhansi.
.....Respondents

Advocate for the applicant:

Sri K.K. Srivastava

Advocate for the Respondents:

Sri Saurabh Srivastava

ORDER

Through this O.A the applicant has prayed for issuance of an order quashing the order dated 20.09.2006 (Annexure-A of O.A) coupled with prayer for a direction to the respondents to provide him compassionate appointment on the post of G.D.S B.P.M, Pipra Raipur, District- Lalitpur.

2. The case of the applicant, in brief, is that the father of the applicant died on 09.01.1993 while serving as GDS BPM. After the death of Late Bhanu Pratap Singh, wife of the deceased preferred an application for appointment on compassionate grounds on 19.05.1993 in favour of the applicant. According to the learned counsel for the applicant, at the relevant point of time, the applicant was minor.

therefore, the respondents vide letter dated 16.11.1993 informed that whenever the applicant becomes major, his application for compassionate appointment shall be considered. Learned counsel further submitted that after becoming major, the applicant preferred an application to the respondents seeking compassionate appointment, which was rejected vide impugned order dated 20.09.2006 and that too without giving opportunity of hearing. The main ground of challenge of order dated 20.09.2006 is that while considering the claim of the applicant and passing the order dated 20.09.2006, the respondents failed to take into account the Instruction No. 3005 issued vide Government of India, Ministry of Defence, Ordnance Factory Board, Kolkata dated 28.05.2004.

3. On notice, the respondents have filed their Counter Affidavit. It is vehemently argued by the learned counsel for the respondents that the case of the applicant was considered by high powered committee of the department strictly in accordance with several judicial pronouncements of Apex Court as well as the relevant guide lines issued by the Nodal Ministry from time to time, and was found not fit for consideration as the father of the applicant, who was working as GDS BPM died 13 years back and the family has survived during this period. In support of their contention, learned counsel for the respondents has placed reliance on a decision of Hon'ble Supreme Court in the case of **United Bank of India Vs. M.T. Latheesh** 2006 (7) SCC 350, **State of J&K and Ors. Vs. Sajad Ahmed Mir** (2006)5 SCC 766 and 2007(1) SCC (L&S) 668, **National Institute of Technology Vs. Manoj Kumar Singh**. In case of **Manoj Kumar Singh (supra)** the Apex Court held that appointment on

compassionate ground cannot be granted to the son after getting majority after more than 15 years of the death of an employee.

4. I have heard rival contentions and perused the pleadings as well as documents relied on by either side carefully.
5. Having heard learned counsel for the parties, I am firmly of the opinion that the order dated 20.09.2006 passed by the competent authority (Annexure- A of O.A) is perfectly just and proper. No notice or opportunity is required to be given to the applicant any more. As per the decision of Hon'ble Apex Court rendered in **Manoj Kumar Singh's case (supra)** and **State of J&K (supra)**, in which it has been held that 'once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Art. 14 of the Constitution'. In the instant case, the father of the applicant has died 13 years back. Therefore, in view of the law laid down by Apex Court, the order dated 20.09.2008 rejecting the claim of the applicant on the ground that the family has survived during this period cannot be interfered. The applicant has failed to make out any case for interference. Accordingly the O.A is dismissed being devoid of merit.
6. There will be no order as to costs.

Anand
MEMBER- J.

/Anand/