

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No 144/2006**

This the 18<sup>th</sup> day of December, 2008

**Hon'ble Mr. M. kanthaiyah, Member (J)**  
**Hon'ble Dr. A. K. Mishra, Member (A)**

Rameshwar Singh aged about 36 yeas S/o Sri Late Ram Niwar Singh  
R/o Village Tipat, Post Officer Rupot (Sadalpura) District Chandauli.

Applicant.

By Advocate Sri R. S. Gupta.

Versus

1. Union of India through the Secretary Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General U.P. Lucknow.
3. Senior Superintendent of Post Offices Vasranasi (East) Varanasi.

Respondents.

By Advocate Sri G.K. Singh for Sri Yogesh Keshasrwani.

**ORDER**

**HON'BLE DR. A.K. MISHRA, MEMBER (A)**

This application has been made challenging the rejection of the case of the applicant for compassionate appointment in the Postal Assistant cadre made in the order dated 11.4.2005 of respondent No. 2

2. The brief facts of the case are as under:-

The father of the applicant, who was an employee of the Postal Department was prematurely retired on 12.5.1995 on medical grounds. The case of the applicant for appointment as Postal Assistant on compassionate ground was favorably considered and approval was given for his appointment in the letter dated 29.7.1999 of the Chief Post Master General of Respondent No.2 (Annexure -2). He was sent for departmental training for the purpose. He successfully completed both theoretical and practical components of the training on 1.4.2000. He was temporarily asked to perform the duties of Postal Assistant during the strike period vide order dated 28.4.2000 and thereafter he was again engaged in this post on 3.4.2002. But in meantime, he was asked in the letter

dated 4.5.2001 to give his willingness to work regularly on a vacant post of Gramin Dak Sevak (GDS) otherwise his request for compassionate appointment would be rejected. (These facts have been narrated in the order dated 6.1.2003 in O.A. No. 839/2002.)

3. The applicant filed the aforesaid O.A. in which the following observations were made by this Tribunal " I therefore, direct the respondents to offer any post to the applicant in Gramin Dak Sevak for the time being, which the applicant undertakes to join within a stipulated period and in case any vacancy arises in Postal Assistant cadre he may be considered for same, keeping in view the fact that he has already been made to undergo training for the said post." In spite of such observations, the case of the applicant was not considered by the respondents, who went in Writ Petition against the orders of this Tribunal. The Writ Petition No. 42607/2003 was dismissed by the Hon'ble High Court for default on the part of the respondents. As a result, the directions of the Tribunal acquired a finality.

4. The applicant contends that in a similar case of Ram Babu Tripathi Versus Union of India, this Tribunal gave identical direction that the applicant in that case should be given appointment in the Postal Assistant cadre as an when a vacancy was to be filled up from the quota of compassionate appointment and for the time being he should join as GDS. In that case, the department filed a writ petition No. 35/2003 in the Hon'ble High Court and this petition was dismissed on 27.1.2003. Thereafter, the respondents went to the Supreme Court where again their petition was dismissed on 19.1.2004. Sri Ram Babu Tripathi, who was working as GDS, was appointed as Postal Assistant on 23.1.2004. The observations of the Hon'ble High Court in the Writ Petition No. 35/2003 are germane to the present issue. Relevant portion of this judgment is extracted below:-

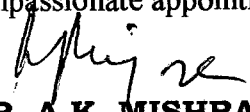
" The respondent applied for appointment on compassionate ground and with a conscious decision his appointment was approved and he was sent for training at different levels which training he completed successfully. Not only this he was paid remuneration and dearness allowance and thereafter he was required to act against a post, in question, namely, Grami Dak Sevak. The Tribunal has, therefore, found that since the respondent had already undergone required training and since there is no vacancy available in the quota of compassionate ground against the post of Postal Assistant, therefore, aforesaid



direction has been issued. The Tribunal has also taken into consideration that for the appointment on the post of Postal Assistant, the Government has to spend certain money in imparting training which training has already been imparted to the respondent, therefore, it would be appropriate that he should be given appointment on the post of Postal Assistant whenever any vacancy arises. We do not find it a fit case for interference under Article 226 of the Constitution of India as it neither contravenes Rules of Appointment on compassionate ground nor it infringes upon the quota of such appointees but also protects the interest of the respondent in the given circumstances of the case where he was given training at different levels. Petition is accordingly dismissed.”

5. The case of the applicant is squarely covered by this judgment of the Hon'ble High Court. The earlier direction was that his case for appointment in the Postal Assistant cadre should be considered in view of the fact that he had already been made to undergo training for the post. Further, the respondents have admitted that the applicant was approved for appointment in PA cadre vide order dated 27.9.99 of respondent No. 2. So, there was no question of reconsidering his case for compassionate appointment. On the other hand, it was a case of keeping him at the top of the waiting list and appointing him as and when a vacancy under the compassionate quota arose. This course of action was taken by the respondents in the case of Ram Babu Tripathi and Nadim Faridi & Others and there was no justification to turn down the legitimate claim of the applicant for appointment as a Postal Assistant, particularly in the context that his case was already approved and he had undergone training for the purpose.

6. In the circumstances, we find merit in this application. The respondents are directed to appoint the applicant in the cadre of Postal Assistant in next vacancy under compassionate quota and to give him notional seniority from the date Sri Ram Babu Tripathi was appointed in view of the fact that both of them were offered compassionate appointment as PA on 29<sup>th</sup> July 99. No cost.

  
**(DR. A.K. MISHRA)**  
**MEMBER (A)**

  
**(M. KANTHAIAH)**  
**MEMBER (J)**

18.12.08