

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 493/2006

This the 28th day of March, 2008

Hon'ble Sri Justice Khem Karan, Vice Chairman

Gauri Shanker aged about 32 years son of late Panchu Ram Yadav,
resident of Village and Post Jamtali, District- Pratapgarh

Petitioners

By Advocate: Sri Sampurnanand

Versus

1. Union of India through Secretary, Department of Communication (Postal), New Delhi.
2. Post Master General, Allahabad.
3. Senior Superintendent of Post Offices, Postal Division, Pratapgarh.

Opposite Parties

By Advocate: Sri G.K.Singh

ORDER (ORAL)

By Hon'ble Sri Justice Khem Karan, Vice Chairman,

Applicant has prayed for directing the respondents to allow the applicant to continue as daily wager (Chowkidar) and to consider the conferment of temporary status, in view of law laid down by the Apex Court and to make regular payment of salary as per rules.

2. The brief facts giving rise to this O.A. are as under.
3. Admittedly, applicant's father late Sri Panchu Ram Yadav was a contingent paid chowkidar with temporary status and after having put in about 20 years in that capacity, he died on 29.10.1997 while still in service. It is stated in para 4.2 of the O.A. that the applicant moved for appointment on compassionate grounds and certain steps were also taken in that directions. Instead of compassionate appointment, he was engaged on daily wages basis, vide order dated 6.1.99. There is no dispute that the term of his engagement on



daily wages basis, was extended from time to time but with breaks. He continued working for certain period. He pressed for conferment of temporary status and when the respondents did nothing in that regard, he filed one O.A. No. 238 of 2002 which this Tribunal finally disposed of vide order dated 28.10.2005 (Annexure -8), directing the respondents to consider his case for according temporary status in accordance with rules. It is alleged by the applicant that on failure of the respondents to consider the grant of temporary status in compliance of the said orders of the Tribunal, he filed one contempt application NO. 2/2006 which this Tribunal disposed of vide order dated 24.8.2006, giving liberty to the applicant to seek appropriate remedy in law, he filed this O.A. The sum and substance of the case of the applicant is that in the circumstances, he could not have been discontinued on daily wager and could not have been replaced by another daily wager.

4. The respondents have filed reply contesting the claim.
5. I have heard Shri Sampurnanad for the applicant and Sri G.K.Singh for the respondents.
6. The applicant was admittedly engaged as a daily wager. That engagement was not under dying in harness rules. He was disengaged in 2002. Shri Sampurnanad has not been able to satisfy as to how this Tribunal can issue directions to the respondents to re-engage him as daily wages basis, in the face of constitution Bench decision in State of Karnataka Vs. Uma Devi SCC 2006 Page-1.
7. The applicant was engaged as a daily wager, pending his request for compassionate appointment under dying in harness rules. It is admitted in para 21 of the reply that applicant had applied for compassionate appointment but the same could not be considered as post of C.P. Chowkidar was declared in dying cadre. In all fairness that request ought to have been considered as per rules for appointment on any post in Group 'D'. Abolition of post of C.P.



Chowkidar, did not mean that applicant's request for such appointment had become in-fructuous. He was innocent enough to feel content, in engagement as daily wager. He appears to be a poor person. Although, no specific prayer for considering his appointment on compassionate ground has been made, but I think directions have to be issued to secure the ends of justice.

8. So, this O.A. is finally disposed of with a direction to the respondents No. 2 and 3 to consider the request of the applicant for compassionate appointment under dying in harness rules, in accordance with relevant guidelines within a period of 8 months from the date, a certified copy of this order is produced before them. By abundant cautions, the applicant is permitted to move another application for compassionate appointment within a period of one month from today but that will not mean that he had not applied earlier. No order as to costs.

[Signature]
28/3/08

Vice Chairman

HLS/-