

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 387 of 2004

Jabalpur, this the 16th day of November, 2004

Hon'ble Shri Madan Mohan, Judicial Member

Smt. Kaushalya Bai, W/o. Late Shri
Bansilal Patel, aged about 40 years,
R/o. Village Infront of Police Station,
City Kotwali Mandla, Civil Lines,
Mandla (MP).

... Applicant

(By Advocate - Shri (S. Paul) Sanjay Patel

V e r s u s

1. Union of India, through the
Director General Posts & Telegraph,
New Delhi.
2. Director of Postal Services
Department, Bhopal (MP).
3. Senior Superintendent of Post
Office, Balaghat, Division Balaghat,
Distt. Balaghat (MP).
4. Sub Divisional Inspector,
Post Office Dindori, Distt. Dindori.
5. Pradeep Kumar Patel, S/o. late
Shri Bansilal Patel, Aged 31 years,
R/o. Village-Munu, P.O. Munu, Tah.
Mandla, Distt. Mandla (MP). ... Respondents

(By Advocate - Shri K.N. Pethia for the official respon-
dents and Shri Gopi Chourasia for private
respondent)

O R D E R

By filing this Original Application the applicant has
claimed the following main relief :

"i) to examine the records and further be pleased to
command the respondent to considered the claim of
compassionate appointment of her daughter Shashi Patel
and issue the order in the interest of justice."

2. The brief facts of the OA are that the husband of the applicant Shri Bansilal was an employee of respondent No.4 on the post of Dak Pal at Post Office Harratola , who expired while in service on 8.6.2001. The applicant was sole legal heir of the deceased along with Shashibai, Sangeetabai and Sandeep and respondent No.5 Pradeep Kumar was the son of earlier wife. After the death of applicant's husband, respondent No.5 filed a civil suit for succession of the legal heirs under Section 372 of Indian Succession Act , registered as succession case No.33/2001 in court of Civil Judge Class I, Mandla. The applicant was not a party in that case. Ist Civil Judge, Class-I, Mandla passed the order of succession in favour of present applicant and respondent No.5 vide order dated 25.4.03 (Annexure A1). After this order of the civil court, the applicant moved an application before the respondent No.4 for compassionate appointment in favour of her elder daughter Shashi Patel on 9.5.03 (Annexure A2). But no reply was given by the department. She again filed a representation on 2.6.03 (Annexure A3), followed by reminders. But no action has been taken by the respondents. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant is the legally wedded wife of the deceased Bansilal Patel and she had moved an application for compassionate appointment of her daughter on 9.5.03 and thereafter she had also moved another application but the respondents did not consider her application while according the judgment of the 1st Civil Judge, Mandla , the applicant was also declared a legal heir along with respondent No.5 Pradeep Kumar who is the son of first wife of the deceased.



4. In reply, it is argued on behalf of official respondents that earlier, Pradeep Patel and Ku.Shashi Patel, son and daughter of the deceased, had applied for grant of compassionate appointment on 6.7.01 and in the month of August 2001 respectively. The deceased employee was married to three women at different points of time. Pradeep Kumar Patel was born from the first wife of Bansilal patel. The deceased got married to second wife who was issueless. The deceased then married the present applicant who has three children. Pradeep Kumar filed a suit claiming himself to be the legal heir for payment of amount of Group Insurance Scheme to him. In the succession case, he did not array the present applicant as a party. In the said succession case, the court passed an order on 25.4.03 and apportioned the assets of deceased Bansilal between all the legal heirs, Pradeep Patel, Smt.Kaushalya Bai, Ku.Shahi Bai, Ku.Sangeeta Bai and dilip Kumar Patel in same proportion. In the present application, Ku.Shashi Patel has not been made a party which was legally necessary. Respondent No.5 Pradeep Patel is the son of first wife of the deceased Bansilal Patel. Hence this OA is liable to be dismissed.

5. After hearing learned counsel for both parties and a careful perusal of the records, I find that in the succession certificate issued by the civil judge vide order dated 25.4.03, Smt.Kaushalya Bai and Pradeep Kumar Patel (respondent No.5) were declared as legal heirs. Hence the legal heirs are entitled to apply for compassionate appointment. Learned counsel for respondents argued that the respondents would consider case of each and every legal heir who applies for compassionate appointment on merit. The



respondents have not passed any order on the representation of the present applicant so far.

6. Considering all the facts and circumstances of the case, I am of the considered opinion that the legal heirs of deceased Bansilal Patel are legally entitled for consideration for compassionate appointment. Therefore, they may submit their representations giving full particulars and details along with relevant documents regarding educational qualification, experience etc. to the respondents within a period of one month from today, and if they comply with this, then the respondents are directed to consider such representations within three months according to rules.

7. The OA is disposed of as above. No costs.

(Madan Mohan)
Judicial Member

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अद्योचित:-

- aa. (1) सचिव, उच्च न्यायालय चार एकोमिशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/शु.....के काउंसल
- (4) कांयपाल, को.प्र.अ., जबलपुर न्यायधीन सूचना एवं आवश्यक कार्यवाही हेतु

Shri S. Paul HC JBP
Shri KNPetha & Shri Gopi Chandra
HC JBP

19/11/07
उप-रजिस्ट्रार

Issued
On 19-11-07
BS

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Sri S. Paul HC JBP
K. S. Patil HC JBP
S. G. Chandra HC JBP

11/11/07
उप-रजिस्ट्रार

Issued
On 14-2-07
BS