

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Dated: This the 30<sup>th</sup> day of August 2019

**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J**

Original Application No.330/1508 of 2014

Achal Kumar S/o Late Sukhlal R/o Gopalpur Natha Nagla (Kakarpur),  
Post Agwanpur District Moradbad.

..... Applicant

By Adv: Shri M.I. Ansari

V E R S U S

1. Union of India through Secretary, Ministry of Postal and Telecommunication Department, Dak Bhawan, New Delhi.
2. Post Master General Bareilly Region, Bareilly.
3. Senior Superintendent of Post Offices, Moradabad.
4. Superintendent of Post Offices, Moradabad.

..... Respondents

By Adv: Ms. Shikha Dixit

**ORDER**

1. The present O.A. has been filed by applicant Achal Kumar seeking following reliefs:-

- "(i) To quash the impugned order dated 24.01.2012 (Annexure A-1) in the light of Hari Ram case.
- (ii) To direct the respondents to consider the case of the applicant for compassionate ground appointment on the basis of financial status and need of the applicant within time bound period.

- (iii) To pass any such and further order as deem fit in the facts and circumstances of the case.
- (iv) To issue award cost and compensation in favour of the applicant".

2. The case of applicant Achal Kumar is that on the death of his father Sukh Lal on 30.09.2005 while serving in the respondents' department, the applicant filed an application on 21.05.2007 seeking appointment on compassionate ground and which application was rejected by the respondents vide impugned order dated 24.1.2012, which is annexed to the OA as Annexure A-1. It is the further case of applicant that as per impugned order dated 24.1.2012, the respondents rejected his plea for compassionate appointment on the ground that the case of applicant was considered for the years 2010 and 2011 and since he was having 52 merit points, he could not fulfil the criteria laid down for appointment on compassionate ground. The delay in filing the O.A. was condoned vide order dated 7.3.2018. Applicant has challenged the impugned order on a number of grounds including the violation of O.M. dated 18.11.2014 whereby in pursuance of judgment dated 08.04.2009 passed by Hon'ble High Court, Allahabad in Hari Ram Vs. F.C.I the limit of 3 years for grant of compassionate appointment was withdrawn and application for compassionate appointment is to be considered without any time limit.

3. In the counter affidavit, respondents have taken the plea that the applicant had 52 merit points whereas the last selected candidate has got 76 points and that the impugned order is in accordance with the rules and the scheme laid down for appointment on compassionate ground, as such, O.A. being meritless, be dismissed.

4. I have heard and considered the arguments of learned counsels for the parties and perused the pleadings on record.

5. It is to be noted that the judgment dated 8.4.2009 in Hari Ram Vs. F.C.I has been set aside by the Hon'ble Division Bench, Allahabad High Court vide judgment dated 31.05.2018 in Special Appeal No. 916 of 2009 titled F.C.I. Vs. Hari Ram. In view of the judgment of Hon'ble Division Bench, the O.M. No. 14014/3/2011-Estt. (D) dated 26.07.2012 impliedly stands withdrawn. However, as per law laid down in the case of F.C.I Vs. Hari Ram (supra), the O.M. dated 05.05.2003 which prescribed a time limit of 3 years stands revived.
6. Looking to the facts of the case, it is apparent that the respondents considered the case of applicant on 2 occasions only whereas they should have considered the case of applicant for compassionate appointment for 3 times. Therefore, O.A. is allowed and impugned order dated 24.01.2012 is set aside with the direction to the respondents to consider the case of applicant for compassionate appointment for third time and dispose of the same by way of speaking and reasoned order with intimation to the applicant within a period of 3 months from the date of receipt of certified copy of this order. No order as to costs.

**(RAKESH SAGAR JAIN)**

Member (J)

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