

**Reserved**

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
BENCH, ALLAHABAD

Pronounced on 30<sup>th</sup> July, 2019

**Hon'ble Mr. Justice Bharat Bhushan, Member (A)**

**Original Application No.330/00083/2016**  
(U/S 19, Administrative Tribunal Act, 1985)

Km. Rinki Yadav d/o late Rajendra Prasad r/o Village Bhadi  
Korwaliya, P.O. Shahganj, Tahsil, Shahganj, District- Jaunpur.

Applicant

By Advocate: Sri O.P.Gupta

Versus

1. Union of India through its Secretary, Department of Posts India, New Delhi.
2. The Chief Post Master General, U.P.Circle, Lucknow.
3. The Post Master General, Allahabad Region, Allahabad.
4. Assistant Superintendent of Post Offices, Shahganj Sub Division, Jaunpur.

Respondents

By Advocate: Sri Krishna Dutt Mishra

**ORDER**

**By Hon'ble Mr. Justice Bharat Bhushan, Member (J)**

Applicant, Km. Rinki Yadav, has filed this present Original Application (O.A.) for the following reliefs:-

- i) To issue an order or direction in the nature of mandamus commanding or directing the respondents to appoint the applicant under Dying in Harness Rule.
- ii) To issue an order or direction to reconsider the representation made by the applicant before the respondents No. 2 to 4 (Annexure No. II to compilation No.1).
- iii) To quash the impugned order dated 8.9.2015 passed by respondent No. 2 and communicated by respondent No. 3 (Annexure No.1 to compilation No.1).

iv) To issue any other order, or direction as this Hon'ble Court may consider proper and necessary in the circumstances of the case, and

v) To award the cost of this Original Application.

2. Brief facts of this O.A. are that late Sri Rajendra Prasad Yadav, father of applicant Km. Rinki Yadav, was working in the Postal Department as Chowkidar in Kheta Sarai Post Office, District- Jaunpur. He was promoted to the post of Multi Task Staff (M.T.S.) Group 'C' on 14.11.2011.

3. Unfortunately, late Rajendra Prasad Yadav, died in harness on 17.10.2013. His un-married daughter, applicant Rinki Yadav, immediately moved an application for compassionate appointment. It has been said that mother of the applicant had also died on 17.8.2012. She obtained certificate regarding her poor financial condition from Gram Pradhan.

4. Her claim is that she was completely dependent upon her father as he was only earning member of her family.

5. Initially, respondent No. 5 vide letter dated 11.12.2014 informed the applicant that she was not eligible for the post of Assistant Dak Post but subsequently her name was considered for appropriate position considering her education and skill level but she could not be selected on account of securing only 56 merit points, which were not enough for her appointment on compassionate ground. The impugned order dated 8.9.2015 is reproduced as below:-

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 ikfjokfjd iW'ku Lok fuofRr fgr ykHk vkfJrka dh I ; k py&vpy I EifRr  
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 Supdt. of Post Offices  
 Jaunpur Division 222001"

6. This order is under challenged before this Tribunal on the ground that her request for compassionate appointment was considered only once despite the fact that prevailing rules and law laid down by various courts contemplates that such cases should be considered for three times.
7. Respondents have filed their counter reply wherein they have denied the claim of applicant saying that her case was considered and processed but she could not be given any appointment on the ground of securing insufficient merit points. Therefore, her name could not be recommended by the Circle Relaxation Committee (CRC).
8. Heard Sri O.P. Gupta, learned counsel for the applicant and Sri Krishna Dutt Mishra, learned counsel for the respondents.
9. Indubitably, in the present case the application filed by the applicant was considered on one occasion only by the respondents. I may refer to the observation of the Hon'ble High Court of Allahabad in **Special Appeal No.916 of 2009 titled Food Corporation of India Vs. Hari Ram decided on 31.5.2018** wherein the Hon'ble High Court has held that :-

"We have gone through the O.M. and find, when a candidate is not offered appointment, his name is carried forward for next year since quota is only 5 percent for compassionate appointment out of direct recruitment quota. A fresh review of financial status

of family is taken and then again, for next year same exercise is repeated. We find it difficult to convince ourselves with any such analogy that such exercise should continue till appointment is given. There has to have some ceiling at some point of time and we find that two reviews in case of a candidate are genuine, reasonable and if a candidate's financial status is found to be sound or that he has been denied appointment due to non availability of vacancy and has survived, then such candidate cannot be continued in the wait list for unlimited period or for longer than a reasonable period, What should be a reasonable period, it is for the Department or Employer to decide as a matter of policy. Considering entire policy of compassionate appointment in question we do not find any such thing which may be said to be vesting A, an arbitrary discretions. Court normally does not interfere with a policy decision unless probably it is arbitrary to hold that ceiling limit of three years provided/prescribed by department concerned is unreasonable or arbitrary is difficult to accept. Whether offer of appointment in the category of compassionate appointment shall be carried forward for three years or more is well within the domain of policy making body of concerned Department/ Corporation. Besides, we do not find circular/policy in any manner irrational."

"We may consider it from this angle as well that O.M. which has been placed before us and which is quoted herein above, that department itself has been considerate enough in case of compassionate appointment by bringing in enhancement of time limit from one year to three years. In totality of scheme, we find that there is nothing wrong or arbitrary and irrational in the instructions as contained in the scheme."

10. Based on the OMs and the law laid down by the Hon'ble High Court in the case of FCI (supra), it is clear that respondents are bound to consider the case of an applicant for compassionate

appointment for two more consecutive years, therefore, the application is to be considered for three consecutive years in total. In the present case it is nobody's case that the case of applicant was considered on more than one occasion only.

11. Therefore, irrespective of the fact that the application was considered and rejected, it was obligatory upon the respondents to consider the application for two more consecutive years, which however, the respondents failed to do so. In the facts and circumstances of the case, it is clear that the respondents failed to discharge their duty to consider the application for two more consecutive years.

12. In view of the aforesaid discussion, the Original Application is allowed. Respondents are directed to consider the case of applicant for compassionate appointment under prevailing rules at least for two more years. They are also directed to inform the applicant about such consideration. No order as to costs.

**(Justice Bharat Bhushan)**  
**Member (J)**

**HLS/-**

