

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2912 of 2005**

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1. Union of India through the D.G.-cum-Secretary, Department of Posts, Dak Bhawan, New Delhi.
  2. The Chief Post Master General, Bihar Circle, Patna.
  3. The Superintendent of Post Office, Aurangabad Division, Aurangabad.

.... .... Petitioner/s

Versus

1. The Central Administrative Tribunal, Patna Bench, Patna through its Registrar.
2. Ravi Shankar, son of late Ram Dhyan Mahato, resident of Mohalla-Chitragupta Nagar (Club Road), P.S. Aurangabad, District- Aurangabad.

.... .... Respondent/s

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**Appearance :**

For the Petitioners : Mr. Sanjay Kumar, A.S.G.

For the Respondent No.2 : Mr. Jayant Kumar Karn, Advocate  
Mr. Hemant Kumar Karn, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**And**

**HONOURABLE MR. JUSTICE GOPAL PRASAD**

ORAL JUDGMENT

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 13-01-2015**

This writ petition is filed by the Union of India and others challenging the order dated 28.08.2003 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short, 'the Tribunal') in O.A. No.540 of 2001.

The father of the second respondent herein was a Class IV employee in the Department of Posts. He is said to have died while in service in the year 1996. There existed a Scheme for providing employment on compassionate ground to the dependents of a deceased employee, subject to

certain conditions. The second respondent submitted an application in the year 1997 with a request to provide employment.

The Scheme that existed at the relevant point of time was to the effect that 5% of the available vacancies shall be ear-marked for the purpose of giving employment to the dependents of the deceased employee who died while in service on compassionate grounds. The turn of the second respondent did not reach during that year. The same situation existed till the year 2000. In the year 2000, a policy decision was taken to restrict the consideration of such candidates only for the concerned year and not to carry them forward. However, those candidates, who were on the waiting list, were given an option to work as Gramin Dak Sevak (G.D.S.).

Such an offer was made to the second respondent. However, he did not accept the same and filed O.A. No.540 of 2001 with a prayer to direct the petitioner herein to appoint him as Clerk, on compassionate ground. The Tribunal allowed the O.A. through the order under challenge. Hence, this writ petition.

Heard Sri Sanjay Kumar, learned Assistant Solicitor General, for the petitioners and Mr. Jayant Kumar

Karn, learned counsel for the 2<sup>nd</sup> respondent.

It is fairly well settled that no one has a vested right to claim appointment on compassionate grounds. The Scheme was framed only as a measure to help the family of an employee, to overcome the inconvenience caused on account of sudden death of employee while in service. Beyond that it is not as a matter of right or part of any Service Rules.

The second respondent, no doubt, submitted an application in the year 1997 citing the death of his father in the year 1996. However, his chance did not occur, obviously because many candidates were waiting, and available vacancies were only to the extent of 5%. The same situation continued for three years and in the year 2000, a policy decision was taken to confine the consideration of the candidates under that category only for that concerned year.

For all practical purposes, the second respondent stood pushed out of the zone of consideration. However, as a measure of further compassion, the Department has decided to offer the employment as Gramin Dak Sevek (G.D.S.) to the second respondent. That, however, was not to the liking of the second respondent.

The Tribunal was not able to point out any

specific rule that enabled the second respondent to seek the employment as a matter of right. It is not as if the case of second respondent was not considered at all. It was, in fact, considered and since he did not fall within the stipulated parameters, he was not employed. We are not in agreement with the view taken by the Tribunal. It is brought to the notice of the Court that identical orders, passed by the Tribunal were set aside by this Court.

We do not find any basis for the direction issued by the Tribunal. The writ petition is, accordingly, allowed and the order dated 28.08.2003 passed by the Tribunal in O.A.No.540 of 2011 is set aside. It is, however, directed that the second respondent shall be given option to work as Gramin Das Sevak (G.D.S.) within a period of four weeks from today.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

**(L. Narasimha Reddy,CJ)**

**(Gopal Prasad, J)**

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