

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

**Civil Writ Jurisdiction Case No.12638 of 2016**

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Pramod Kumar, son of Late Awadheswh Prasad (Ex- Postman, Patna G.P.O.),  
resident of Village- Post Lalganj, Sehara, P.S.-Paliganj, District- Patna.

.... .... Petitioner/s

Versus

1. The Union of India, through the Director General, Department of Post, Govt. of India, New Delhi.
2. The Chief Post Master General, Bihar Circle, G.P.O., Patna.
3. The Deputy Chief Post Master General (Post and Treasury), G.P.O., Patna.
4. Smt. Renu Devi, wife of Late Awadhesh Prasad, C/o Late Abhay Kumar Singh, Ramadhar Lane, Karbighahia, Kankarbagh, Patna-20.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sushant Kumar Dutta  
For the Respondent/s : Mr. A. K. Pandey,  
Mr. R. K. Sharma

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date: 06-03-2017**

Heard learned counsels for the parties.

OA of the petitioner has been dismissed by the Central Administrative Tribunal, Patna Bench, Patna. It is the order, dated 12<sup>th</sup> of February, 2016, which is under challenge in the present writ application. He wants the order of the Tribunal to be set aside and a direction to be given for settlement of the post-retiral dues as well as compassionate appointment, since his father, who was a government servant under the Postal Department, died in harness on 25.12.2012.

The end result of the deliberation done by the



Tribunal is reproduced hereinbelow to get the essence as to why the Tribunal rejected the OA Application of the petitioner:

***“4. The official respondents contested the case by filing a separate written statement. According to the official respondents, Awadhesh Prasad while working as Postman, Patna GPO expired on 25.12.2012 leaving behind widow, one son and one daughter. The deceased had two wives and second wife namely Smt. Renu Devi is alive. The applicant is married son of the deceased from first wife who also expired on 10.05.1989 and during his life time, the deceased Awadhesh Prasad nominated his second wife for pension and all terminal benefits. The applicant and second wife of the deceased preferred their claim for appointment. They have further pleaded that before selection process the candidate filed an OA 629/2013 for redressal of his grievance and the Tribunal remitted the matter to the respondent authorities to consider the issue treating the OA as a representation and keeping in view the CAT’s order, these respondents passed reasoned and speaking order on 22.08.2014. They have further stated that the applicant is a married one and he cannot be treated as dependent according to the instructions laid down in DOP&T, New Delhi OM dated 30.05.2013.***

***5. Now the applicant has made an additional prayer to set aside the appointment of Respondent***



***No. 4 on compassionate ground. Admittedly, the father of the applicant had married Respondent No. 4 after the death of his first wife, i.e. on 10.05.1989. The official records indicate that the deceased had nominated the present private respondent no. 4 as wife. Had it been a case of the employee marrying a second wife during subsistence of first wife, it could have been termed as a void marriage. Since the marriage was solemnized after the death of the first wife Smt. Kanti Devi on 10.05.1989, the marital status of Respondent No. 4 remains unchanged. In between the son and the widow, no fault can be found in the action of the respondents, if a widow gets appointment on compassionate ground in preference to a son of the first wife. Since compassionate appointment is not a statutory right, no interference is called for when the very appointment does not seem to be irrational. Hence ordered.”***

If these are the findings, which emerged with regard to the status of the private-respondent no. 4, the Postal Department cannot be faulted for providing her the benefits as a wife of the late employee.

The Tribunal has committed no error by refusing to grant any relief to the petitioner. Till the status of the private-respondent no. 4 as a wife is not declared null and void, the damage done to the petitioner cannot be undone.



Writ application is dismissed.

**(Ajay Kumar Tripathi, J)**

**(Nilu Agrawal, J)**

SKM/-

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