

In The High Court of Judicature At Allahabad

Sitting At Lucknow

Court No. - 1

Case :- WRIT - A No. - 1963 of 2025

Petitioner :- Rajesh Kumar

Respondent :- U.O.I. Thru. The Secy. Railway Board, Ministry Of Railways, New Delhi And 5 Others

Counsel for Petitioner :- Ajay Pratap Singh

Counsel for Respondent :- A.S.G.I.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Ajay Pratap Singh, learned counsel for the petitioner and Sri S.B Pandey, learned Deputy Solicitor General of India assisted by Sri Anand Dwivedi, learned counsel for Union of India.

2. By means of the instant writ petition the petitioner has challenged the validity of the judgement and order dated 17.05.2024 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow in O.A No.332/00305/2024.

3. The aforesaid original application was filed by the applicant seeking a relief that the official accommodation allotted to his brother-opposite party no.5, need not be disturbed. The original application filed by the petitioner has been dismissed as not maintainable as the petitioner is

not an employee and the dispute raised by him is not a service matter.

4. The petitioner's father Suraj Pal had died on 12.03.1990, while he was in service. After his death, the opposite party no.5, Dinesh Pal, who is the petitioner's brother, was given appointment on compassionate ground. Subsequently the petitioner's mother Smt Chauba Devi filed an application for cancellation of the compassionate appointment given to the opposite party no.5 stating that he was not looking after his mother, who was widow of the deceased employee. Upon this application, the compassionate appointment given to the opposite party no.5 was cancelled. The opposite party no.5 challenged the termination of his appointment by filing Original Application No.310 of 2001; Dinesh Pal vs. Union of India and Ors, which was allowed by means of a judgement and order dated 01.08.2001 and his appointment was restored subject to the condition that he would pay 1/4th of his salary to his mother Smt Chauba Devi to enable her to maintain herself as well as her dependents.

5.Smt Chauba Devi died on 14.07.2023.

6. Although the prayer made in the original application is that the authorities should not dispossess the petitioner from the house allotted to

his brother Sri Dinesh Pal, the learned counsel for the petitioner has submitted that it is the opposite party no.5 who is trying to dispossess the petitioner.

7. The Tribunal held that the dispute raised through the original application is not a “service matter” as defined in Section 3 (q) of the Administrative Tribunal Act, 1985 and, therefore, the original application is not maintainable.

8. Challenging validity of the aforesaid order, the learned counsel for the petitioner has submitted that the opposite party no.5 Dinesh Pal was given compassionate appointment. Although it was cancelled earlier on the request of the petitioner's mother Smt Chauba Devi, but the same was restored subject to the condition that he would pay 1/4th of his salary for maintenance of his mother and her dependents. The petitioner being a dependent of late Smt Chauba Devi, is entitled to be maintained from the salary being paid to the opposite party no.5 and he is entitled to reside in the official accommodation allotted to the opposite party no.5 due to the compassionate appointment granted to him.

9. The Tribunal had put the condition for payment of 1/4th of salary being paid to the opposite party

no.5 for maintenance of his mother - widow of the deceased employee late Suraj Pal. While the petitioner was being maintained by her mother, he continued to reside with her. However, after death of the petitioner's mother, he no more remained dependent on her dead mother. The petitioner, who is brother of opposite party no.5 is aged about 46 years. He cannot be said to be a dependent of his brother.

10. The *inter se* dispute between the petitioner and his brother regarding occupation of the official accommodation allotted to the opposite party no.5, has rightly not been held to be not a service dispute as per the definition of the term contained in Section 3 (q) of the Administrative Tribunal Act, 1985.

11. We are in complete agreement with the aforesaid view taken by the Central Administrative Tribunal. There appears to be no force in the writ petition and the same is accordingly ***dismissed***.

(Subhash Vidyarthi,J.) (Attai Rahman Masoodi,J.)

Order Date :- 18.2.2025/Shahnaz