

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No.7397/2016

UNION OF INDIA & ORS.

APPELLANTS

VERSUS

GAJENDRA TEWARI

RESPONDENT

O R D E R

1. This appeal, by special leave granted on 08th August, 2016, is directed against an interim order dated 14th October, 2015 passed by a Division Bench of the High Court of Judicature at Allahabad¹, Lucknow Bench. While granting leave, this Court stayed the operation of the impugned interim order until further orders.

2. Having regard to the facts and circumstances projected before us, the appeal deserves to be disposed of immediately acknowledging that this was not such a case which required grant of leave upon condonation of delay of 184 days on the first day the special leave petition was moved; in our considered view, a notice to the respondent followed by a short order finally disposing of the *lis* would have sufficed.

3. In fact, we are pained to observe that pendency of the

¹ High Court

appeal for more than a decade has had the effect of frustrating the object and purpose of compassionate appointment, which the respondent claimed through the writ petition² filed by him before the High Court.

4. The facts in a nutshell are these. Father of the respondent was a postal employee who was dismissed from service on the ground of proved misconduct by an *ex parte* order dated 25th March, 1994. His wife preferred a departmental appeal, which succeeded in part. The appellate order dated 21st March, 1996 required a de novo enquiry while keeping the order of dismissal in abeyance. Meanwhile, the father of the respondent had been missing since 27th October, 1992. An FIR dated 07th February, 1993 was lodged. He, however, remained untraceable. Ultimately, on 09th January, 2004, his civil death was declared by a civil judge.

5. Respondent had applied for compassionate appointment on 31st October, 1997 and was also offered appointment by an order dated 05th January, 2010. Despite the willingness of the respondent to accept the offer and join the post offered, he was refused permission. This resulted in the writ petition before the High Court being instituted.

6. By the impugned interim order, the High Court directed

² Service Bench No.1508/2015.

that the respondent ought to be allowed to work in pursuance of the appointment letter, provided the same has not been canceled.

7. As noticed above, because of the interim order passed on this appeal, the impugned order remained stayed all this while.

8. Appellants raise a contention that the relevant office memoranda governing the field of compassionate appointment, at the relevant time when the respondent's claim was taken up for consideration, did not provide for offering compassionate appointment to a former employee who was found to have indulged in fraud and who had not been exonerated. They further contend that the appointment letter was erroneously issued to the respondent; therefore, the respondent can derive no benefit therefrom and that they were well within their right to refuse him joining.

9. Since the writ petition is pending for decision, these are issues which should be raised before the High Court itself in the first instance for a decision by it and not before this Court in its appellate jurisdiction particularly when an interim order is under assail and not a final order.

10. In view thereof as well as long pendency of the writ petition, we dispose of this appeal with a request to the Chief Justice of the High Court to have the writ petition posted for

final hearing and disposal before a Bench of which the Chief Justice is the Presiding Judge or to assign the writ petition to any other appropriate Division Bench so as to facilitate a final decision thereon in accordance with law, as early as possible but preferably within a period of three months from date.

11. To expedite the process of final disposal of the writ petition, we grant the appellants a fortnight's time from date to place on record their counter affidavit to the writ petition; the respondent may file his rejoinder affidavit thereto, if any, within a week thereafter.

12. We record the assurance of both the appellants as well as the respondent that they shall not seek any unnecessary adjournment before the Division Bench and cooperate with the Hon'ble Judges to bring about an early determination of the long pending *lis*.

13. All contentions/objections are left open to be raised by the parties before the Division Bench for a decision on its own merits.

14. Till the first date of final hearing of the writ petition, the order of stay passed by this Court shall continue. The High Court may, in its wisdom, consider the desirability of extending/vacating the stay on such date, if hearing of the writ petition does not conclude.

15. Pending application(s), if any, shall also stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[SHEEL NAGU]

**NEW DELHI;
SEPTEMBER 24, 2026.**

ITEM NO.102

COURT NO.7

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.7397/2016

UNION OF INDIA & ORS.

Appellants

VERSUS

GAJENDRA TEWARI

Respondent

Date : 24-09-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE SHEEL NAGU

For Appellant(s) : Ms. Archana Pathak Dave, A.S.G.
Mr. Nachiketa Joshi, Adv.
Mr. Vvv Pattabhiram, Adv.
Mr. Nasadiya Singh, Adv.
Mr. B.k.satija, Adv.
Mr. Mukul Singh, Adv.
Mr. Shashwat Anand, Adv.
Mr. Amrish Kumar, AOR
Dr. Arun Kumar Yadav, Adv.

For Respondent(s) :Mr. Pradeep Kant, Sr. Adv.
Mr. Anurag Kishore, AOR
Ms. Ritika Srivastava, Adv.
Mr. Shubham Kumar, Adv.
Mr. Harsh Srivastava, Adv.
Mr. Lakhan Kumar Mishra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal stands disposed of in terms of the signed order.
2. Pending application(s), if any, shall also stand disposed of.

(RASHMI DHYANI PANT)
ASTT. REGISTRAR-cum-PS

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

(signed order is placed on the file)