



2026:AHC-LKO:13209-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 143 of 2026

State of U.P. through Principal Secretary Public
Works Department Lko. and another

.....Appellant(s)

Versus

Sanjay Kumar

.....Respondent(s)

Counsel for Appellant(s) : Rishabh Tripathi, S.C.

Counsel for Respondent(s) : Ashok Kumar Yadava

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

1. This appeal is directed against order dated 10.11.2025 passed by learned Single Judge whereby the order dated 04.04.2019 passed by the appellants was quashed and the appellants were directed to reinstate the respondent in service on the post he was holding prior to passing of the order dated 04.04.2019.
2. Further directions were given to pay 50% of the salary of the post of the respondent w.e.f. 04.04.2019 and in case the same was not paid within a period of four weeks, the same would carry interest @ 6% per annum from 04.04.2019 till the date of actual payment.
3. The appeal is barred by 56 days.
4. An application seeking condonation of delay in filing the appeal has been filed.
5. For the reasons indicated in the application supported by an affidavit, the same is allowed. Delay in filing the appeal is condoned.
6. The respondent was accorded compassionate appointment on 16.02.2004 being adopted son of late Naumi Lal, who was working as

Chowkidar in the Provincial Section, Public Works Department, Lucknow and died in harness on 10.10.1998.

7. A notice was issued to the respondent to produce registered adoption deed and on failure to produce the registered adoption deed, by order dated 01.06.2004, the appointment accorded to the respondent was terminated.

8. Feeling aggrieved, Service Single No.3238 of 2004 was filed by the respondent, which came to be dismissed by order dated 31.03.2014.

9. Against the said order, Special Appeal No.236 of 2014 was filed wherein, the Division Bench *inter alia* came to the following conclusion:-

"Accordingly, the sole ground, on which the appellant-petitioner's appointment has been cancelled, seem to require consideration on merit. Learned Single Judge, while dismissing the writ petition by impugned judgment and order dated 31.3.2014, has not considered the proposition of law raised by the appellant-petitioner, which seems to be on record. It shall be appropriate that this court should record finding with regard to the effect of the U.P. Amendment as well as the affect of judgment and decree of the Civil Court by which succession certificate has been issued and appellant-petitioner has been provided post retiral dues of the deceased government employee late Naumilal. Once the government has accepted the succession certificate and does not disputed it and provided retiral dues to appellant-petitioner, then prima-facie the government has no right to deny the appointment on compassionate ground under dying in harness rules, merely on the ground that the adoption deed was not registered one. U.P. Amendment provides that additional evidence under the Indian Evidence Act shall be admissible to defend any unregistered adoption deed.

In view of above, we allow the present appeal and set aside the impugned judgment and order dated 31.3.2014 passed by learned Single Judge and restore the Writ Petition 3228 (S/S) of 2004 to its original number and remit back to learned Single Judge to take afresh decision keeping in view the pleadings on record as well as the observations made hereinabove. Since affidavits between the parties have already been exchanged, it shall be appropriate that the writ petition, which is pending in this court last 10 years, be listed before appropriate regular bench and decided afresh expeditiously in accordance to law. Registry shall list the writ petition regularly till its final hearing by learned Single Judge on merit. Let the writ petition be listed in the 3rd week of May, 2014 before appropriate regular bench."

10. Pursuant to the remand of the matter, Service Single No.3238 of 2004 was again decided on 25.08.2014, wherein following was held and

directed:-

"The Division Bench has also considered Section 11 of the Indian Evidence Act, which provides the provisions of presumption as to registered documents relating to adoption and has held that once the petitioner obtained the succession certificate on the basis of which the department also released the post retiral dues, it is presumed that the petitioner's adoption is valid and he is a adopted son. Therefore, he is entitled to all the rights accrued to him under the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974.

A bare perusal of the order impugned shows that the petitioner was extended the appointment on compassionate ground subject to production of registered-deed of adoption within fifteen days. The petitioner failed to produce the same within the period stipulated therefor, therefore, the respondents cancelled his appointment whereas I am of the view that once the petitioner has been extended the benefit of the post retiral dues on the basis of succession certificate issued by the court of competent jurisdiction, there is no occasion for the authorities for not recognizing him as adopted son. Once the petitioner is declared as an adopted son, he stands on the status of son and becomes entitled to get all the benefit accrued to him as a son.

In the light of aforesaid fact, I am of the view that the authority concerned has failed to appreciate the correct fact and law and has passed the order impugned. Since the order impugned suffers from error of law, it is hereby quashed.

In the result, the writ petition stands allowed."

11. It appears that despite the fact that the writ petition filed by the respondent was allowed, and the order impugned dated 01.06.2004 was quashed by learned Single Judge, the appellants chose to ignore the same.

12. The respondent again approached this Court by filing Service Single No.5187 of 2019 wherein, on 22.02.2019, learned Single Judge disposed of the writ petition with the following observations and directions:-

"The claim of the petitioner was rejected vide order dated 01.06.2004, which was subject matter of challenge in Writ Petition No.3238 (SS) of 2004 (Sanjay Kumar Vs. State of U.P. and others), wherein the order dated 01.06.2004 was set aside. Even, if there was no direction for reconsideration of the claim of the petitioner, once this Court set aside the order impugned, the respondents were duty bound to reconsider the claim of the petitioner on his representation filed along with certified copy of the judgment passed by this Court on 25.08.2014 in the above referred writ petition. Non consideration of the claim of the petitioner is not justifiable in law. This Court, in the judgment and order dated

25.08.2014, has recorded certain finding in regard to adoption of the petitioner.

In view of the above, the respondent No.2 is directed to examine the claim of the petitioner for grant of compassionate appointment in the light of observation made in the judgment dated 25.08.2014 passed in Writ Petition No.3238 (SS) of 2004 and to pass appropriate order within a period of two months from the date of production of a certified copy of this order.

With the aforesaid observation and direction, the writ petition is disposed of."

13. It appears that though the learned Single Judge directed the appellants to pass order in terms of the directions of the Division Bench followed by Single Bench order dated 25.08.2014, the appellants passed a fresh order on 04.04.2019 again coming to the same conclusion that for lack of registered adoption deed, the appointment accorded to the respondent was not valid. Feeling aggrieved, a fresh writ petition being Writ-A No.12480 of 2019 was filed.

14. Learned Single Judge, after hearing the parties and referring to the orders passed from time to time in the *inter-se* litigations, came to the conclusion that once the Division Bench of this Court had already adjudicated on the aspect upholding the compassionate appointment on the basis of succession certificate, the order impugned was clearly in teeth of the findings recorded by the Division Bench and consequently, quashed the order and directed, as noticed hereinbefore.

15. Counsel for the appellants made vehement submissions that learned Single Judge was not justified in allowing the writ petition. Submissions were made seeking to reiterate the fact that as the adoption deed was unregistered, the same could not have been relied on by the respondent for seeking compassionate appointment and the appointment which was accorded in the year 2004 based on unregistered adoption deed, was rightly cancelled on 01.06.2004.

16. Attempts were made seeking to question the very fact of adoption and that the same was contrary to the provisions of the Hindu Adoptions and Maintenance Act, 1956 on account of the age of the respondent at the time of adoption.

17. Counsel for the respondent supported the order impugned.

18. We have considered the submissions made and have perused the material available on record.

19. The entire sequence of events, as noticed hereinbefore, clearly reflects a totally highhanded conduct on the part of the appellants in not only ignoring the orders passed by the Court but also passing orders which are *ex-facie* contrary to the findings recorded by the Division Bench.

20. As would be seen, the Division Bench in its order dated 05.05.2014, after taking into consideration the State Amendment to the Indian Evidence Act, 1872 (for short, 'the Act, 1872'), clearly came to the conclusion that once the succession certificate was accepted by the appellants after the death of Sri Naumi Lal and the same was not disputed and the retiral dues were paid to the respondent, the Government had no right to deny the appointment on compassionate ground under the U.P. Recruitment of Dependants of Government Servants (Dying in Harness) Rules, 1974 merely on the ground that the adoption deed was not registered. The Division Bench took into consideration the proviso and observed that U.P. Amendment provides that additional evidence under the Act, 1872 shall be admissible to defend an unregistered adoption deed, based on the said observations, on the matter being remanded, learned Single Judge of this Court, by its order dated 25.08.2014 (quoted hereinbefore), came to the conclusion that the authority concerned had failed to appreciate the correct facts and law and had passed the order impugned which suffers from error of law and quashed the same and the writ petition was allowed.

21. The order dated 25.08.2014 was not challenged by the appellants and the same became final. Once the order dated 01.06.2004 was quashed and the same was not challenged that should have been the end of the matter and the respondent should have been reinstated by the appellants immediately. However, contemptuously, they chose to ignore the order passed by learned Single Judge on 25.08.2014 and apparently the respondent was made to run from pillar to post for its compliance and ultimately he filed a fresh writ petition being Service Single No.5187 of

2019, wherein again learned Single Judge required the appellants to follow the Division Bench and Single Bench orders. However, as noticed hereinbefore, in a totally highhanded manner, the order impugned before the learned Single Judge dated 04.04.2019 was passed, rejecting the claim of the respondent.

22. Once the directions of the Division Bench were very clear and specific and based on which the writ petition was allowed and the said order was not questioned, the appellants were bound to follow the said directions and reinstate the respondent. Passing of the order dated 04.04.2019 is *ex-facie* incorrect, contrary to the Division Bench judgment and, in fact, in a total contempt of the directions issued by the learned Single Judge passed way back in the year 2014. Only because the learned Single Judge, in his order dated 22.02.2019 required the appellants to pass an appropriate order, the same essentially was to comply with the directions and not come to a conclusion different from what had already been ordered by Division Bench and Single Judge of this Court.

23. As noticed hereinbefore, the conduct of the appellants cannot be countenanced under any circumstance. They did not comply with the directions issued by this Court and have also ignored the same and have chosen to pass orders which are contrary to the binding directions of this Court for which the respondent has been made to run from pillar to post for now over 20 years, for which conduct appropriate costs need to be imposed.

24. In that view of the matter, the directions as given by the learned Single Judge quashing the order dated 04.04.2019 cannot be faulted on any count.

25. However, it appears that learned Single Judge has confined the relief w.e.f. 04.04.2019 on the assumption that on 04.04.2019, the services of the respondent have again been dispensed with, whereas the fact of the matter is that since 01.06.2004, the respondent is out of employment.

26. In view thereof, the appeal is **dismissed** with a cost of Rs.50,000/- which shall be deposited before the Legal Services Committee of this Court at Lucknow.

27. The appellants are directed to comply with the directions of learned Single Judge and in the order impugned dated 10.11.2025, wherein the directions have been given for payment of 50% of the salary w.e.f. 04.04.2019, exercising powers under Order XLI Rule 33 CPC, the same is modified and the respondent would be entitled to get the said 50% of the salary from 01.06.2004.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

February 19, 2026

Rakesh/Sandeep