

Central Administrative Tribunal
Principal Bench

O.A.No.2713/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 9th day of May, 2003

Shri Baldev
s/o Late Shri Lakman Singh
r/o Village Bhagan
P.S. & Tehsil Gannaur
Distt. Sonapat (Haryana).

... Applicant

(By Advocate: Shri D.R.Roy, proxy of Sh. C.P.Jain)

Vs.

1. Union of India through
The Secretary
Ministry of Communication
New Delhi.
2. Post & Telegraph Department
Through the Post Master General
Department of Posts
Delhi Circle
New Delhi - 110 001.
3. Senior Superintendent of Post Offices
Delhi North Division
Delhi - 110 054. ... Respondents

(By Advocate: Sh. R.P.Aggarwal with Ms. Avinesh
Kaur)

O R D E R

By Shri Shanker Raju, M(J):

Applicant impugns respondents' order dated 9.4.2002 wherein his request for compassionate appointment has been rejected. He has sought quashment of the same with directions to appoint the applicant to any suitable post on compassionate basis. Applicant is a son of the deceased Government servant. The deceased Government was working as Postman, died in harness on account of an accident while returning back to home boarded ^k and fell down from the train.

2. Family of the deceased consists^l of widow, two sons and one daughter. As ^{terminal} benefits a sum of Rs.2,41,033 has been paid to the family and the deceased family is getting Rs.1675/- plus DA of 50% (approximately) per month.

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3. Applicant filed an application for compassionate appointment giving all the particulars, he was informed by an order dated 29.2.2000 regarding consideration of his case. Applicant was asked to furnish certain documents regarding financial status, etc. Finally, request of applicant was rejected, giving rise to the present OA.

4. Learned proxy counsel for applicant contended that the deceased was the only earning and supporting member of the family, the rejection of request of applicant for compassionate appointment is arbitrary and in violation of Articles 14 and 16 of the Constitution of India. As the respondents have taken into consideration extraneous matter while considering the case of applicant and despite the family is indigent and in dire need of financial assistance to tide over the crisis, rejection is unsustainable in law.

5. On the other hand, OA is contested, and Shri R.P. Aggarwal, learned counsel appearing on behalf of respondents vehemently opposed the contentions. According to him, the case of applicant was placed before the Committee, which considered it sympathetically in relation to other cases in the light of the DoPT's OM dated 9.10.1998. After

consideration of factors, like, terminal benefits, possession of own house and half acre agricultural land, the dependent family has not been found indigent, as the case of applicant does not come within the ambit of most deserving cases, accordingly his case was not recommended.

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6. Applicant in his rejoinder opposed the contentions and stated that the house and the agricultural land which are joint ancestral property and the ground of non-availability of vacancies against the 5% quota in direct recruitment is evasive.

7. In the light of the decision of Apex Court in H.S.E.B. v. Krishna Devi, JT 2002(3) SC 485 as the compassionate appointment cannot be claimed as a matter of right, against guide-lines. On consideration of the case of applicant for compassionate appointment in the light of the terminal benefits accorded, liabilities, size of the family and the fact that family owns residential house and agricultural land, and the fact that the compassionate appointment is restricted to 5% of the vacancies under direct recruitment quota for the year, I do not find any infirmity in the order passed by respondents.

8. Co-ordinate Bench of this Tribunal in OA 2706/2001, decided on 7.5.2003 in Himmat Singh v. Union of India & Others, after meticulously gone into the relevant provisions on the Scheme of compassionate appointment and taken stock of the decisions of rulings of the Apex Court and formulated guide-lines, applying the aforesaid ratio as the family of

applicant is not indigent, and not found to be deserving^u as compared to others, this Court in its discretionary jurisdiction, cannot order relaxation of any of the provisions of the Scheme and as the case of applicant has been thoroughly considered, the same lacks merit.

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9. In the result, for the foregoing reasons, OA is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

/rao/