

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1274/2002

This the 24th day of May, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Smt. Neelam Rani wife of late Sh. Braham Dutt,
approved candidate for appointment as
Post Assistant in Meerut Postal Division
on compassionate ground,
R/o Nunia Mohalla Sadar Bazar Meerut Cantt,
Address for service of notices
C/o Sh. Sant Lal Advocate
C-21(B) New Multan Nagar,
Delhi-110056.

(By Advocate: Sh. Sant Lal)

Versus

- 1 Union of India
through the Secretary,
Ministry of Communications,
Dept. of Posts,
Dak Bhawan, New Delhi-110001.
- 2 The Chief Postmaster General,
U.P Circle, Lucknow-226001.
- 3 The Postmaster General,
Bareilly Region,
Bareilly-243001.
- 4 The Sr. Supdt. of Post Offices,
Meerut Division, Meerut-250001.

(By Advocate: Sh. K.R. Sachdeva)

ORDER

Applicant has filed this OA seeking a direction to the respondents to give appointment to the applicant on compassionate grounds against the post of Postal Assistant.

2. Applicant alleges that husband of the applicant was declared dead on account of having been untraced for over 7 years. Applicant after his declaration as dead made an application to the competent authority for grant of appointment as Postal Assistant on compassionate grounds which was approved by the competent authority.



3 Thereafter the applicant was given a practical training of 15 days to work as Postal Assistant and applicant is stated to have completed the training successfully. Applicant was also medically examined by CMO, Meerut and was declared medically fit for appointment to the Govt. job. After medical, applicant was sent for institutional training for 2-1/2 months at P&T Training Centre Saharanpur w.e.f. 21.3.2000. That training was also completed by the applicant successfully. Thereafter again she was imparted 15 days practical training. Applicant was also asked to give her willingness for absorption in any other Ministry/Department which was also submitted by the applicant. However, thereafter Resp. No.3 asked her to await for her turn for appointment in view of the waiting list.

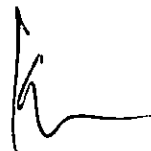
4 However, Resp. No.4 has now again asked the applicant to give her willingness for a part time job of ED Agent which action is stated to be arbitrary and illegal. Applicant again made an application for seeking appointment on compassionate grounds as her case has already been approved by the competent authority for appointment as a Postal Assistant and she declined the offer of appointment as ED Agent. The action of the respondents in offering the post of ED Agent is stated to be violative of Article 14 & 16 of the Constitution as it is submitted that as per the standing order of the department the post of ED Agents are offered to the dependents of the deceased ED employees who die while in service and not regular Group 'C' & 'D' employees. It is further stated that it is not within the competence of Resp. No.4 to interfere with the order of approval issued by the Chief Postmaster General for appointment of the applicant as Postal Assistant. It is

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further stated that all the pre-appointment formalities including the training has already been completed. So applicant is entitled to be appointed to the post of Postal Assistant. Applicant also relied upon judgment of the Hon'ble High Court of Kerala in the case of Brijthama vs. State of Kerala and also case of Mohd. Khalid vs. U.O.I. & Ors. in OA-691/2001 decided by Lucknow Bench of the Tribunal.

5. Respondents are contesting the OA. Respondents in their counter affidavit pleaded that no vacancy of Postal Assistant is available and have relied upon the Supreme Court judgment of Himachal Road Transport Corporation vs. Dinesh Kumar and Hindustan Aeronautics Ltd. vs. Smt. A.Radhika Thirumalai and submitted that appointment on compassionate grounds can be made only if vacancy is available for that purpose. Respondents further pleaded that the Department of Post had discontinued the maintenance of waiting list of approved candidates for compassionate appointment on the basis of Ministry of Personnel DGP&T OM dated 24.11.2000 and all the approved candidates were asked to give their willingness to work in any other Ministry. Since it is not feasible because this OM was later on withdrawn so that is why the waitlisted candidates were asked to give their option for the post of Gramin Dak Sewak. Since the applicant had not availed of that option, thereafter the applicant cannot be given regular appointment for want of vacancies.


6. I have heard the learned counsel for the parties and gone through the record.



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7. Counsel for the applicant submitted that alongwith the applicant two more candidates were approved as per Annexure A-3. The name of the applicant was at Sl. No.1 and name of Ajay Kumar and Anil Kumar was at Sl. No.2 & 3 respectively. Both of them had also filed an OA before this Tribunal and their cases have been allowed and respondents have been directed to consider the case of the applicant for appointment as Postal Assistant having regard to the availability of vacancies as per their orders dated 11.6.2002. Counsel for applicant has also referred to the judgment given in OA-837/2002 in case of Ajay Kumar vs. U.O.I. who was also in the same select panel as well as the judgment given in OA-3340/2001 in case of Anil Kumar vs. U.O.I. who was also in the same panel. So I think it would not be appropriate to pass any order different in spirit as to what have been passed by the Coordinate Benches on their OAs as they were also similarly placed and the same plea was taken by the respondents.

8. This OA can also be disposed of in similar manner as OA-837/2002 was disposed of by another Bench of this Tribunal. I may further mention that it is not in dispute that the case of the applicant was also approved by the Chief Post Master General (Competent Authority) for appointment as Postal Assistant. Applicant was also imparted the requisite training including institutional training. Besides that department has also come out with another circular dated 11.6.2002 which was also taken into consideration by the Court in OA-837/2002. Accordingly, I am also of the view that the applicant is also entitled to the same relief as granted to the applicant in OA-837/2002. Since the Screening Committee had already approved to fill up direct recruitment quota in Postal



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Assistants cadre, so applicant can also be accommodated in view of the order passed by the department by their OM dated 11.6.2002.

3. Accordingly, I allow the OA and direct the respondents to consider the case of the applicant for appointment as Postal Assistant and they shall also take note of the OM dated 11.6.2002 with regard to availability of vacancies.


(KULDIP SINGH)
Member (J)

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