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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2202/1999

HON'BLE DR. A. VEDAVALLI, MEMBER(J)

New Delhi, the 28 February, 2000

1. Smt. Asha Sharma
Widow of Late Shri Hari Shankar Sharma
Postal Assistant, Mathura
2. Rajeev Sharma
S/o Late Shri Hari Shankar Sharma
Postal Assistant, Mathura
Residential Address:

C/o Shri V.P. Upadhyaya
Flat No.50, Rajdhani Nikunj Apartment
I.T.Extant, Patparganj
Delhi-92

....Applicants

(By Advocate: Shri D.P.Sharma)

Versus

1. Union of India
Through Secretary
Ministry of Communication (Dept. of Posts)
New Delhi
2. The Director General of Posts
Dak Bhawan, Parliament Street
New Delhi
3. The Chief Postmaster General
U.P. Circle, Lucknow

....Respondents

(By Advocate: Shri Vinod Kumar, proxy counsel
for Shri Rajinder Nischal)

O R D E R

HON'BLE DR. A. VEDAVALLI, MEMBER(J)

The facts in this case briefly are as under:-

Hari Shankar Sharma, while working as Postal Assistant in H.P.O., Mathura, expired on 2.9.1993 leaving behind his widow and three children who were minors at that time. Applicant No.1 Smt. Asha Sharma is the widow and applicant No.2 Rajeev Sharma is the son. Applicant No.1 Asha Sharma sponsored applicant No.2 for appointment on compassionate grounds. The case was considered by the Department and the Chief Postmaster General, U.P. Circle, Lucknow (Respondent No.3) gave the approval for appointment of the second applicant Rajeev Sharma for the post of

Postal Assistant in Mathura Division. This approval was conveyed to him by the letter dated 8.6.1998 (Annexure A-1). The concerned divisional head was asked to take further necessary action as per rules for compassionate appointment against available vacancies.

2. The grievance of the applicants is that no appointment has been given to applicant No.2 in spite of the approval for appointment as contained in the aforesaid letter dated 8.6.1998 at Annexure A-1 and the representation given by applicant No.1 dated 5.11.1998 (Annexure A-4) and the one dated 28.4.1999 submitted by applicant No.2 (Annexure A-5) and another representation dated 4.10.1999 submitted by applicant No.1 (Annexure A-6).

3. The applicants are seeking in this O.A. a direction to the respondents to provide appointment to applicant No.2 as Postal Assistant at any place where a vacancy exists.

4. Learned counsel for the applicant Shri D.P. Sharma submitted that there is no reply from the respondents to the aforesaid representations submitted by the applicants and it is not known as to why appointment has not been given to the second applicant in spite of the approval given by the respondents regarding the same. He further submitted that even if a vacancy is not available in the Ministry/Department/Office in which the deceased government servant had been working, there are several postal divisions under Respondent No.3 and applicant No.2 can be posted against a vacancy in any other Division or Circle as there are several Postal Divisions under Respondent No.3 and he is competent to take necessary action in this regard. Learned counsel prayed for the grant of relief as

sought in this O.A.

5. Learned proxy counsel Shri Vinod Kumar, who appeared on behalf of the learned counsel for the respondents, submitted that the appointment is subject to availability of vacancies as per rules and that compassionate appointments can be made upto a maximum of 5 per cent of vacancies in direct recruitment quota in any grade 'C' or 'D' post. He stated that due to non-availability of vacancy in compassionate quota, the applicant has to wait for his turn and there is no vacancy in this quota in any of the Divisions/Units of U.P. Circle. He has also stated that several candidates are awaiting their appointment in other Divisions/Units of the Circle and the applicant will be appointed in his turn.

6. Learned counsel for the applicants, in reply, submitted that as per the relevant instructions and scheme for Compassionate Appointment as contained in O.M. No.14014/6/94-Estt.(D) dated 9.10.1998 (Annexure-I to Rejoinder), employment under the said scheme is not confined to the Ministry/Department/Office in which the deceased/medically retired Government servant had been working. Such an appointment can be given anywhere under the Government of India and administrative Ministry/Department/Office can take up the matter with other Ministries/Departments/Offices of the Govt. of India to provide at an early date an appointment to applicant No.2 on compassionate grounds and invited my attention to sub-paras (e) and (f) of para 7 of the aforesaid scheme. He has also submitted that sufficient vacancies under five per cent quota of compassionate appointments are available in other Divisions of U.P. Circle and in neighbouring Circles like Delhi, Rajasthan, Madhya Pradesh, etc. and referred to

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which

the recent advertisement of Maharashtra Circle appeared in Rozgar Sangrah of 28.1.2000 to 3.2.2000 (Annexure-III to Rejoinder).

7. Learned proxy counsel for the respondents submitted that the aforesaid representations are still pending and his department has no objection to consider the aforesaid representations given by the applicants on merits and dispose of the same expeditiously.

8. I have heard the arguments advanced by the learned counsel for both the parties. The pleadings and the material papers and documents placed on record have been perused. The matter has been considered carefully.

9. Sub para (e) of para 7 of the relevant scheme for compassionate appointments dated 9.10.1998 (supra) reads thus:-

"(e) Employment under the scheme is not confined to the Ministry/Department/Office in which deceased/medically retired Government servant had been working. Such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment."

Sub para (f) of the said para 7 of the scheme reads thus:-

"(f) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the Administrative Ministry/Department/Office to take up the matter with other Ministries/Departments/Offices of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list."

10. In view of the aforesaid provisions of the scheme and since the respondents are willing to consider the aforesaid pending representations submitted by the applicants in this regard, and in the interests of justice, the O.A. is disposed of with the following directions:



- (1) The respondents are directed to consider the aforesaid representations made by the applicants on merits and in the light of the relevant instructions and the scheme relating to compassionate appointments including the ones which have been extracted above and dispose of the same by a detailed and speaking order in accordance with law.
- (2) The said order should be communicated to the applicants within three months from the date of receipt of a copy of this order.

No costs.

A. Vedavalli
28/2/2000

(DR. A. VEDAVALLI)
MEMBER(J)

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