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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA-1008/1988

Date of decision: 4.3.91

Sunil Kumar Gulati

Applicant

Vs.

Union of India & others

Respondents

PRESENT

Shri D.S. Chaudhary, counsel for the applicant.

Shri P.P. Khurana, counsel for the respondents.

CORAM

Hon'ble Justice Shri Ram Pal Singh, Vice-Chairman
(J).

Hon'ble Shri P.C. Jain, Member (A).

(Judgment of the Bench delivered by Hon'ble Justice
Shri Ram Pal Singh, Vice-Chairman (J))

J U D G M E N T

This application has been filed by Shri Sunil Kumar Gulati, 2nd son of the deceased Shri Bal Kishan Gulati, who was employed as Postal Assistant in the office of the General Post Master, New Delhi G.P.O., New Delhi, and who passed away while in service on 3rd October, 1986, on the failure of the respondents to provide compassionate appointment to the applicant.

2. Brief facts of the case, as stated in the application, are that the applicant's father, Shri Bal Kishan Gulati, was employed as Postal Assistant under the General Post Master, New Delhi G.P.O., and passed away on 3rd October, 1986, while in service, leaving behind two sons, one daughter and a widow.

The elder son is married and employed as a conductor in

Lawfully

DTC and has been living separately much before the demise of his father. The applicant, his sister and mother have no source of income except a meagre family pension of Rs. 835/- p.m. which the applicant's mother receives. The applicant's mother represented to Respondent No. 3 on 17.10.86 (Annex. A/2) to provide appointment to the applicant in place of his father on compassionate grounds. A similar application was also given to Respondent No. 2 alongwith a copy to Respondent No. 1 (Annex. A/3). The applicant's mother again wrote to Respondent No. 2 on 10.8.1987 with a copy to Respondent No. 3 reiterating her earlier request. Shri V. Narayana Swamy, the then Member of Parliament (Rajya Sabha) also wrote to the then Minister of Communications on 14.9.1987 (Annex. A/4). The applicant's mother again wrote to the respondents on 11.3.1988 (Annex. A/5). A question in Parliament was also raised on 14.3.88 and Respondent No. 1 replied in Parliament that the request of the applicant was under examination. (Annex. A/6). Getting no response from the respondents, the applicant has filed the present application on the ground that there is no earning member in the family of the deceased and that whatever amount was received after the death of his father has already been spent on the day-to-day expenses and the amount of family pension is insufficient for their subsistence and have taken loan from the relatives to meet the basic necessities. The respondents have failed to consider the application of the applicant and the delay caused is against all canons of justice and the inaction of the respondents is against the principles of natural justice, good conscience equity and humanitarian approach. The applicant has prayed that the respondents be directed to provide appointment to the applicant on compassionate grounds because the respondents have failed to apply their mind in considering/deciding his earlier requests made to them.

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3. The respondents in their counter have stated that the deceased father of the applicant was working as Postal Assistant in New Delhi Head Post Office and died after rendering 28 years, 5 months and 25 days service in the Department. The case of the applicant was considered by the Departmental Committee for compassionate appointment in the light of the instructions on the subject but rejected. The final decision of the competent authority was communicated to the applicant on 27.5.88 (Annex. R-1). The employment under relaxation of Recruitment rules is considered by a committee and the basic principle for giving relaxation is to give employment only in deserving cases where the family of the deceased employee stands in need of immediate assistance on account of sudden death, there being no other earning member in the family. The case of the applicant has not been found to satisfy the condition for providing employment on compassionate grounds. According to the respondents, one son of the deceased employee is employed as Conductor in D.T.C. but they are not aware since when he is living separately. The case of the applicant was duly considered by the Departmental Committee for compassionate appointments and rejected and the decision was communicated on 27.5.88 and as such there has been no inaction on the part of the respondents, as alleged. The applicant has no right for appointment on compassionate grounds and as such no relief, as claimed, is admissible to him.

4. In the rejoinder the applicant has admitted receipt of letter dated 27.5.1988 from the respondents, which was received after filing of the application, but the said letter is without application of mind and without considering the relevant facts of the case. The applicant has submitted that in accordance with the guidelines for employment on compassionate grounds, nearest relatives of the employees who die in

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harness. The fact that the applicant's brother is employed as Conductor is irrelevant as he is living separately from the family and this fact was brought to the notice of the respondents during the life time of their deceased father. He had also filed copies of the ration ^{card} along with the O.A. to support his claim.

5. Learned counsel for the respondents, Shri P.P. Khurana, has filed a statement on behalf of the respondents that on the death of Shri Bal Kishan Gulati, the applicant's father, who expired on 3.10.1986, his mother has been granted family pension of Rs. 740.00 + Rs. 319.00 as D.A. (Total Rs. 1059/-), which she is regularly receiving. According to Shri Khurana, the widow of the deceased Shri Bal Kishan Gulati i.e. the mother of the applicant received an amount of Rs. 82,803.50 in total as leave encashment, OTA, bonus, GIS, GPF, DCRG. This account submitted by Shri Khurana has not been controverted by the applicant. We have, therefore, arrive at the conclusion that the statement furnished by Shri Khurana is correct.

6. The question which arises is whether the appointment of the applicant in the office of the G.P.O. on compassionate grounds is his right? Usually, such appointments are made with the intention that the deceased employee's family may not lead the life of indigent. The sole purpose of providing employment on compassionate grounds is to mitigate the hardship of the family members due to the death of the bread earner employee of the family. That is why it has been provided that if the appointment on compassionate grounds has to be made, then it has to be provided immediately to redeem the deceased employee's family from distress. In Smt. Har Dei Vs. U.O.I. & Others (OA 2267/89) decided by a Division Bench of this Tribunal, it has been held:

"Employment on compassionate ground cannot be claimed.

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as a matter of right. When the competent authority has duly considered the circumstances of the family of the deceased employee based on the request of the widow, and rejected the request for appointment, we are of the view that there is no case for judicial review."

It thus becomes evident that the appointment on compassionate grounds on the death of a deceased employee dying in harness is not a right for the heirs of the deceased employee. The case of the applicant was considered for his appointment on compassionate grounds by the competent authority and the reply (Annex. R-1) was sent to the mother of the applicant on 13.5.88 wherein it has clearly been mentioned that her letter dated 3.8.87 is rejected after consideration. Probably the amount paid to the family of the deceased and also the fact that one of the brothers of the applicant is already in Government service, the appointment of the applicant cannot be made on compassionate grounds.

7. The Division Bench of this Tribunal's judgement in the case of Mrs. Jiwan Devi & Another rendered in OA 312/1988 on 12.12.90 throws comprehensive light upon the subject under discussion. Applying the principles laid down in this Bench's decision, it becomes apparent that the applicant who belongs to the family of the deceased employee is not in an indigent state. Substantial amounts of funds were placed at the disposal of the mother of the applicant who lives and leads the life along with the applicant. As the mother of the applicant is receiving family pension of about Rs. 1,000/- and also other benefits, it appears that the family possesses monetary resources of more than Rs. 80,000/-. In such a situation, the applicant cannot be said to be leading an indigent life.

Family

8. Consequently, this O.A. has no force. It is, therefore, dismissed. Parties are directed to bear their own costs.

Q. 4/3/1991
(P.C. JAIN)

Member (A)

Ram Pal Singh
(RAM PAL SINGH)

Vice-Chairman (J)