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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3056 OF 2004

New Delhi, this the 18th July, 2005

HON'BLE SHRI M.K. MISRA, MEMBER (A)

Rajbala
(Legal Heir and widow of Daya Nand)
r/o Village and Post Khor,
Tehsil Patodi, Gurgaon,
Haryana.
Presently residing at
T-496, P Block, Mangol Puri,
New Delhi.

.....Applicant.

(By Advocate : Shri G.R. Choubey)

versus

1. Union of India
Through It's Secretary,
Ministry of Communication and Information Technology,
Dak Bhawan,
Sansad Marg,
New Delhi-110001.
2. Chief Post Master General
Delhi Circle,
New Delhi-110001.
3. Chief Postmaster,
Indraprastha Head Post Office,
New Delhi-110002.

.....Respondents.

(By Advocate : Shri R.P. Aggarwal)

ORDER (ORAL)

Smt. Rajbala, legal heir and widow of Late Shri Daya Nand, the applicant seeks compassionate appointment on the ground that the applicant's husband expired on 11.11.1998 while in service living behind his widow with four minor children (three daughters and one son). She applied for employment on 25.3.1999 and the Screening committee vide letter dated 14.8.2000 has recommended the name of the applicant for appointment on compassionate

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ground. The applicant also gave the consent vide letter dated 27.1.2001. Vide letter dated 24.1.2004, the respondents rejected the claim of the applicant on the ground that there was no vacancy available in the circle.

2. In reply, the respondents submitted that as per the DOP&T's OM No.14014/6/94-Estt(D) dated 9.10.1998 which contains consolidated instructions on compassionate appointment to the family member of the deceased employee, a person can be considered for appointment on compassionate ground within the ceiling of 5% of direct recruitment vacancies and that too within a year. If the dependent family member of a Govt. servant is dying in harness and is facing financial crises. The deceased employee was working as a Halwai in the Postal Department in Delhi and family received terminal benefits about Rs.1,75,000/- and odd. Since there was no vacancy available in Group 'D' post, therefore, the persons recommended for appointment were to be considered to be employed as E.D. Agents/G.D. Agents, subject to fulfillment of the requirement. Since the applicant was not possessing the requisite qualification, i.e., matriculation/8th standard pass, she was not employed there as she is only IInd class pass. Respondents also referred the various decisions of the Apex Court, such as **Umesh Kumar Nagpal Vs. State of Haryana & others**, JT 1994 (3) SC 525 and **Life Insurance Corporation of India vs. Mrs. Asha Ramachandra Ambedkar and others**, JT 1994 (2) S.C. 183 wherein it was held that the Tribunal is not competent to give directions to the respondents for appointing a person on compassionate ground, if no vacancy is available in the department.

3. In the rejoinder, it was submitted that the Screening Committee recommended the case of the applicant vide letter dated 14.8.2000 later on the respondents after ignoring the recommendations, rejected the claim of the applicant.



4. I have heard the learned counsel for the parties and perused the material available on record.

5. It is observed that the Screening Committee had earlier recommended the claim of the applicant favourably and the consent was also obtained from the applicant as to whether she would be willing to work in any capacity in any branch/department/ministry. The financial condition of the applicant with three minor daughters and one minor son and subsequently another son was born warranted immediate help to her. The respondents should have given some consideration to the recommendations of the Screening Committee.

6. In this context, DOP&T's OM No.14014/19/2002-Estt. (D), dated 5.5.2003 is referred to which is as under :-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No. 14014/6/94-Estt. (D), dated 9.10.1998 and O.M. No.14014/23/99-Estt. (D), dated 3-12-1999 (*Sl. Nos. 229 and 235 of Swamy's Annual, 1998 and 1999 respectively*) on the above subject and to say that the question of prescribing a time-limit for making appointment on compassionate grounds has been examined in the light of representations received, stating that the one-year limit prescribed for grant of Compassionate Appointment is often resulting in depriving genuine cases seeking compassionate appointments, on account of regular vacancies not being available, within the prescribed period of one year and within the prescribed ceiling of 5% of Direct Recruitment quota.

2. It has, therefore, been decided that if Compassionate Appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate Appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year.

3. The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After three years, if Compassionate Appointment is not possible to be offered to the

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Applicant, his case will be finally closed, and will not be considered again.

4. The instructions contained in the above-mentioned OMs stand modified to the extend mentioned above."

7. In view of the above facts, respondents are directed to consider the case of the applicant sympathetically and as per rules. Her claim for compassionate appointment on any post for which she is considered suitable should be considered. The respondents are also directed to pass a speaking and a reasoned order within three months from the date of receipt of a copy of this order after considering the eligibility of the applicant as well as her financial conditions.

8. The present Original Application is disposed of accordingly. No costs.


(M.K. MISRA)
MEMBER (A)

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- MA by respondent-
for extension of time