

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD

DATED : ALLD. ON THIS 15<sup>th</sup> DAY OF JULY , 1998

CORAM : HON'BLE MR. S. L. JAIN, MEMBER ( J ).

ORIGINAL APPLICATION NO. 889 OF 1996

Jitendra Kumar S/o Late Sri Musafir Ram  
at present residing at Gram Tajpur Post  
Tajpur - Dehma, District - Ghazipur.

..... Applicant

C / A : Shri Anant Vijai, Advocate

Versus

- 1) Union of India through Ministry of  
Communication (Deptt. of Post), New Delhi.
- 2) The Chief Post Master General,  
UP Sub Division, Lucknow.
- 3) Supdt. of Post Offices, Mirzapur Division, Mirzapur.
- 4) The Post Master, Mirzapur.

..... Respondents

C / R : Shri N.B. Singh, Advocate.

O R D E R

(By Hon'ble Mr. S.L. Jain, Member (J))

This is an application under section 19 of the  
Administrative Tribunals Act, 1985 for direction to the  
respondent no.2 to consider the case of the applicant for  
suitable appointment on compassionate ground.

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1) There is no dispute between the parties in respect of the facts that the applicant's father Shri Musafir Ram, - A Scheduled caste, died on 1.1.92 due to heart failures while in service as permanent postman, leaving behind widow, three sons namely Yogendra Kumar - illiterate, Jitendra Kumar - the applicant - High School passed, Shailendra Kumar - minor, two daughters Smt. Sushila & Smt. Kaushalya out of which Kaushalya Devi divorced one, lives with her mother. The applicant's mother moved on 28.3.94 an application for appointment on compassionate ground of the applicant which was rejected on 4.7.94, further representations dated 2.1.95, 21.11.95 and 28.2.96 are pending for decision.

2) The applicant's case in brief is that order dtd.4.7.94 passed by the respondent is perverse and illegal, as the status of the applicant's family was wrongly considered without any reliable and sufficient evidence. The family does not own any agricultural land and has no source of income for their survival.

3) The respondents resisted the claim on the ground that retirement benefits - P L I - Insurance etc. for Rs.33,348/-, Leave encashment - Rs.14,063/- has been paid, hence the status of the applicant's family was considered to be not in distress.

4) It is necessary to mention para 8 of the Counter Affidavit submitted by Jagdish Narain Singh which is as under:

"That the deceased Musafir Ram had three major sons but they are unemployed so the position of the house of petitioner is not good and the petitioner and his family members are at the verge of starvation."

5) It is true that the retirement benefit to the tune of Rs.39,930/- & 33,320 total Rs.73,250/-has been received by the applicant's family but the said amount has been utilised in the marriages of the daughters ( Para 2, 3, 4, & 5 of the affidavit of the applicant).

6) Annexure A-2 states as under:-

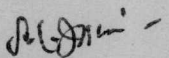
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- 7) In view of para 8 of the counter affidavit and the facts stated by the applicant by way of an affidavit, there cannot be any conclusion other than that the order passed by the authority concerned is perverse one, without application of mind and hence cannot be sustained in any court of Law.
- 8) In Angoori Devi and another V/s Union of India and others (1991) 16 Administrative Tribunals cases 918 decided by C. A. T. , New Delhi criteria for compassionate appointment is held to be "family in need of immediate financial assistance".
- 9) In Lakhan Prasad V/s Union of India and others reported in 1998 (1) All India Law Journal (C A T ) 195 Umesh Kumar Nagpal V/s State of Haryana reported in 1994 S C C(L &S) 930 was referred and it was held that "The whole object of granting compassionate employment is thus to enable the family to tide over sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitled his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family ".
- 10) In Auditor General of India V/s G Ananta Rajeshwara Rao (AIR) 1994 Supreme Court 1521, it has been held that the appointment to the civil post are to be made in accordance with the rules applicable to the same. Exceptions has, however, been made in the case of Government employees who die-in-harness leaving their family in distress. In such cases provision has been made for the appointment of the widow, son or daughter of the deceased employee, in case the family was in distress and due to its indigent condition it was unable to manage itself. It was further held that merely because a person was in Government service, his decendant cannot as of right, claim that he should also be appointed as a Govt.servant.
- S. G. M. /

11) It is also not a case of delay in filing the application for the reason that in Union of India V/s Bhagwan Singh (1995) 31 ATC 736 the Apex Court of Law had held that normally all appointments on compassionate ground should be made within a period of five years from the date of occurrence of events entitling the eligible person to be appointed.

12) In such cases, the Tribunal can only order for consideration of the case by the authorities concerned and appointment cannot be made by the Tribunal itself.

13) In the result, the application deserves to be allowed and is allowed. The respondent no.2 is directed to consider the applicant's application on the ground of compassionate appointment within one month. No order as to costs.

  
MEMBER (J)

/rsd/