

14
RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 9th day of April, 1999

Original Application No. 565 of 1997

District : Chamoli

CORAM :-

Hon'ble Mr. G. Ramakrishnan, A.M.

Pan Singh S/o Late Sir Mohan Singh,
R/o Vill-Karchho (Rigari),
P.O-Rigari, Talsil-Joshimath,
District-Chamoli.

(Sri NS Negi, Advocate)

. Applicant

Versus

1. Union of India through Secretary
Postal and Communication Department,
Sanchar Bhawan, New Delhi.
2. Chief Post Master General,
Hazratganj, Lucknow U.P.
3. Superintendent of Post Offices,
Gopeshwar, District-Chamoli.
4. Sub Divisional Inspector of Post Offices,
Gopeshwar, District Chamoli.

(Km. Sadhna Srivastava, Advocate)

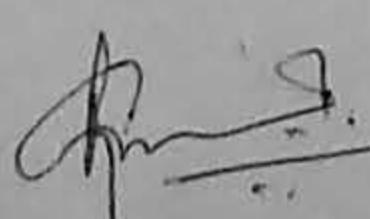
. Respondents

O R D E R

By Hon'ble Mr. G. Ramakrishnan, A.M.

This is an application under Section 19
of the Administrative Tribunals Act, 1985, filed
by the applicant seeking a direction to the respondents
to appoint the applicant on compassionate ground
on a post for which he is eligible/qualified.

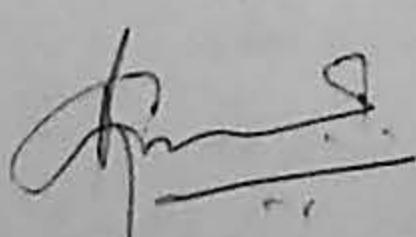
2. The facts which are not in dispute are that



- 2 -

the father of the applicant Sri Mohan Singh who was working as an Extra Departmental Mail Peon (EDMP) died on 21-1-1992 while in service before the age of superannuation. The widow of late Sir Mohan Singh made a representation dated 12-1-1996 addressed to respondent no. 2, 3 & 4 with a request for payment of arrears of gratuity, bonus and Life Insurance of her husband and appointment of his son on compassionate grounds. This was followed by a reminder dated 29-2-1996 (Annexures 1 & 2). Respondent no. 1 issued a letter dated 25-12-1996 (Annexure-3) to the applicant to submit certain certificates stated therin.

3. The applicant contends that he submitted all the certificates as required under the letter dated 25-12-1996 to respondent no. 4 on 4-2-1997. Further the applicant enclosed copies of his letter dated 4-2-1997 and the certificates alongwith the OA and claimed that he was entitled for the appointment according to his qualification, in the department, on compassionate grounds but the respondents failed to perform their duties to appoint the applicant. He stated that Rule 6(5) of the Post and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964 provided for appointment of one ^{or end} department of an ED official who died while in service leaving the family in indigent circumstances, subject to the same conditions as applicable to regular employees who die while in service or retire on invalid pension. The applicant sought the following reliefs:-



- 3 -

"(ii) An order or direction may be issued to the respondents to appoint the applicant on compassionate grounds on the post of which he is eligible/qualified.

(ii) Issue an order or direction to the respondent to decide the representation dated 12-1-1996 which was submitted by the mother of the applicant Smt. Madhuli Devi.

(iii) Issue an order or direction to the respondents to pay entire arrears of bonus, gratuity and Life Insurance Cover to the dependents of Late Sri Mohan Singh.

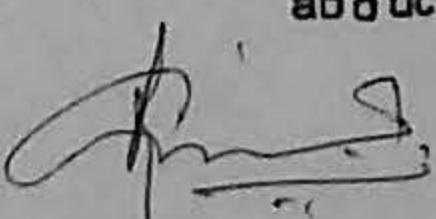
4. Respondents through the counter affidavit filed, resisted the claim of the applicant. They stated that Smt. Madhuli Devi widow of Late Sri Mohan Singh had been paid the remaining pay and allowances of Rs.510/- and Bonus for the year 1991-92 Rs.732/- Ex-gratia Gratuity Rs2730/- and Financial assistance Rs. 1000/- by Money Order. According to the respondents the payments were made in February and April, 1993. Further, they stated that as instalments of CGEIS was not deducted from the allowances of Late Sri Mohan Singh, the question of payment of Insurance money did not arise. Respondents annexed certificate of lifetime arrears payment dated 15-11-1997 and certificate of Ex gratia payment and written statement of Smt-Madhuli Devi dated 8-5-1996 regarding receipt of financial assistance as Annexure-CA-7 & 8. They stated that at the time of the death of Sri Mohan Singh, the applicant was minor, his date of birth being 7-7-1978. They stated that the widow Smt. Madhuli Devi being an

illiterate woman never applied for appointment

on compassionate grounds and Sri Pan Singh, the applicant had not applied for appointment in relaxation of rules. On the application of Sri Pan Singh, the applicant, respondent no.4 vide letter dated 25-12-1996 asked him to submit all the certificates required for appointment on compassionate grounds. They stated that reminders dated 26-2-1997, 29-3-1997, 17-6-1997, 14-7-1997 and 30-9-1997 (Annexures-2 to 6) were also sent but the applicant failed to submit the required certificates and, therefore, his relaxation case could not be forwarded to Chief Post Master General, Lucknow, respondent no.2 for further consideration. Respondents submitted that the OA is wholly devoid of merits and liable to be dismissed.

5. The applicant filed rejoinder affidavit in which he stated that the statement of non-submission of the required certificates by him is totally wrong and false as the certificates were submitted by him on 4-2-1997. He also stated that none of the reminders were received by him. The applicant further stated that his mother Smt. Madhuli Devi had also been cheated as she had not been paid any amount and no proof of payment had been filed by the respondents with the counter affidavit. The applicant again reiterated what had been stated by him in the OA.

6. I heard the learned counsel for the parties. I have also given careful consideration to the rival pleadings of the parties and have perused the whole records. There is no dispute in this case about the ED employee's death and rules governing the

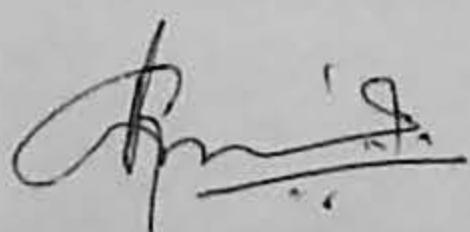


- 5 -

compassionate grounds appointment. The applicant states that the required certificates have been submitted and respondents state that the same have not been submitted. Similarly the applicant stated that his mother had not received the settlement dues whereas the respondents stated that they have been paid. Both the aspects have to be decided on the basis of facts and documents which are in the possession of the applicant and the respondents.

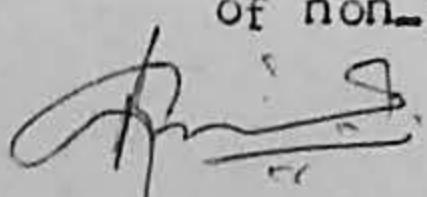
7. The first relief sought for by the applicant is for a direction to the respondents to give the applicant appointment on compassionate grounds, ~~the~~ Hon'ble Supreme Court of India in ~~Umesh Kumar~~ Nagpal vs. State of Haryana((1994) 4 SCC 138) has held that compassionate Ground Appointments have to be governed as per rules framed by the authorities, and Courts/Tribunals should not give direction in the matter against the rules. In the light of the above law laid down by the Apex Court, this Tribunal cannot grant this relief.

8. The third relief sought is for a direction to the respondents to pay the arrears of bonus, gratuity etc. Here again the dispute is that the department states that the payments have been made but the applicant is stating that his mother had not received any money. Another feature which is noticed by me while going through the pleadings is that the applicant mentions his mother's name as Smt. Madhuli Devi in all the paras of the OA and the representations dated 12-1-1996 and 29-2-1996 are also from her. However, in the letter dated 4-2-1997 sent by the applicant to ~~respondent~~



- 6 -

respondent no.4 (Annexure-4 of the OA) the name of his mother is mentioned as Smt. Madhuli Levi alias Teri Levi. In the copy of the family register (Annexure-8 of the OA) the name of Smt. Teri Levi is given. Similarly, in the counter affidavit filed by the respondents the name of the w/o Sri Mohan Singh is indicated as Smt. Madhuli Levi. Also respondents have filed a copy of the statement dated 8-5-1996 made by Smt. Madhuli Levi (Annexure-CA-8). However, it is seen from (i) the statement of Post Master - H.S. Gill, Gopeshwar dated 15-1-1997 (ii) the letter no. Pen/Egg/2/11/92-93 dated 6-1-1993 issued by Accounts Officer, w/o Post Master General, Dehradun and (iii) the copy of the bill under Vr. No. SB-18 of Arrears of Pay and Allowances etc of Gopeshwar HO for the month of April, 1993 IInd, all filed with the counter affidavit by the respondents and Annexure-CA-VIII, shows the name of the w/o Late Sri Mohan Singh as Smt. Maghi Levi. The question that arises is whether Smt. Madhuli Levi, Smt. Teri Levi and Smt. Maghi Levi are one and the same person. The department may enquire and decide if not already done. Of course, the widow of Late Sri Mohan Singh is not before this Tribunal. The applicant in the rejoinder affidavit stated that his mother Smt. Madhuli Levi had been cheated by the respondents of her dues. Similarly, in the matter of compassionate ground appointment, the applicant states in the rejoinder affidavit regarding the plea taken by the department in the counter reply of non-submission of certificates as totally wrong and

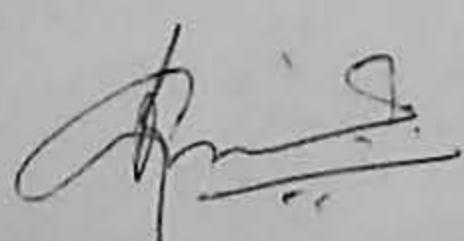


- 7 -

false. I am of the view that the department can now examine the eligibility of the candidate for compassionate ground appointment on merits because the certificates have come on record in this OA. Of course the department can always call for the originals from the applicant for examination if they so desire. The representation dated 12-1-1996 of Smt. Madhuli Devi covers both the payment of settlement dues and compassionate ground appointment on account of the death while in service of Sri Mohan Singh. The second relief sought by the applicant is for a direction to the respondent to decide the representation dated 12-1-1996.

9. In view of the foregoing this OA is partly allowed and with the following directions:-

- (i) Applicant along with his mother may submit any supplementary representation if they so wish, within three weeks from today to Respondent No.2.
- (ii) Respondent No.2 will consider and decide the representation dated 12-1-1996 taking into account any further points/facts brought out in the supplementary representation if any submitted as per direction (i) above and after making such enquiries as are considered necessary. The decision taken may be advised to the representationist and the applicant within a period of two months from the date of receipt of the copy of this judgement. While considering the representation as above, respondent No.2 is directed to specifically examine and decide the relief as per rules that can be given to the

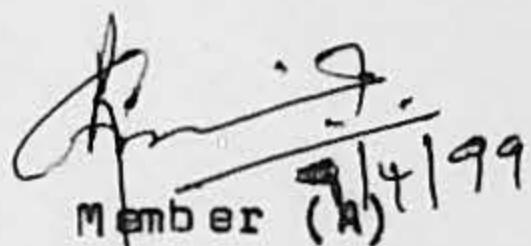


- 8 -

heirs if the non-deduction of instalments for the Central Government Employees' Insurance Scheme was due to the fault of the department.

(iii) Payment of any monetary arrears becoming due to the representationist as a result of the consideration and decision as in (ii) above should be made within three months from the date of receipt of the copy of this judgement.

10. No order as to costs.


Member (A) 14/11/99

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