

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1471/2001

WEDNESDAY, THIS THE 22ND DAY OF JANUARY, 2003

HON'BLE MRS. MEERA CHHIBBER .. MEMBER (J)

Jagdish Prasad Patel,
S/o Late Shri Pyare Lal Patel,
R/o Village and Post Sarai Beeka,
District : Jaunpur. ...

APPLICANT

(By Advocate Shri L.P. Lal)

Versus

1. Union of India, through
Secretary,
Ministry of Telecommunication,
New Delhi.
2. Superintendent of Post Offices,
Jaunpur.
3. Inspector of Post Offices,
Sub Divisional Office,
Machhali Shahar,
District Jaunpur.
4. Director General of Post Offices,
U.P. Lucknow. ...

RESPONDENTS

(By Advocate Shri R.C. Joshi)

ORDER

By this O.A., the applicant has claimed the following reliefs:

- i) To give a direction to the respondents to issue an appointment letter to the applicant on the post of Class-IV employee according to his qualification under the provision of dying in harness Rules; or
- ii) to decide the representation of the applicant pending in the respondents' office within a stipulated period.

2. It is submitted by the applicant that his father was working as E.D.B.P.M. and he died due to long ailment

on 11.4.1997, leaving behind the applicant, one brother younger to him and one sister. He has submitted that there was no other earning member in the family. The mother had already died. Therefore, he gave an application on 18.9.1997, requesting the authorities to grant him compassionate appointment in place of his father. But, till date, the respondents have not decided his application. Therefore, he is forced to file the present O.A.

3. The respondents have filed their C.A. and they have stated that the father of the applicant was involved in serious financial mis-appropriation of public money and was subjected to disciplinary proceedings. He was put off duty by S.D.I. (P), West Division, Jaunpur vide memo dated 4.4.1979, which was confirmed by S.P.Os Jaunpur, vide memo dated 16.4.1979. In his place, one Shri Panna Lal was provisionally appointed vide memo dated 20.12.1979. They have submitted that the charges levelled against the applicant's father were found proved, but, taking a lenient view, he was directed to be put back to his duty vide memo dated 4.3.1981. But, again he was found involved in fraud cases and was put off duty by S.D.I., vide memo dated 2.11.1988, which was confirmed by S.P.Os vide memo dated 8.11.1988. They have further stated that it was found that Shri Pyare Lal, i.e., the applicant's father did not deliver the following



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insured articles to the addresses and the envelopes containing the currency notes were torn by him and the money found therein was mis-appropriated by him:


1. Jegeshwari West P.O. Insured letter No.298 dated 21.9.1988 for Rs.1,400/-
2. Swadeshi Mill Road P.O. Insured letter No.863 dated 22.10.1988 for Rs.1,000/-
3. Oshiwara P.O. Insured letter No.236 dated 25.10.1988 for Rs.1,100/-
4. Vidyashram P.O. Insured letter No.623 dated 29.10.1988 for Rs.3000/-
5. Dandekarwadi P.O. Insured letter No.326 dated 12.10.88 for Rs.700/-
6. Vidhashram P.O. Insured letter No.939 dated 29.10.1988 for Rs.300/-.

4. It was submitted that during the inquiry, the applicant's father had accepted that he had mis-appropriated the money but later on he returned the money to the addresses. It was for the second time that taking a lenient view, he was let off keeping in view his long service of 25 years. Therefore, he was taken back in service vide memo dated 24.4.1989. But, he did not still improve and was again found involved in many fraud cases and was again placed ^{under P2} put of duties by memo dated 26.7.1996, which was confirmed on 9.8.1996. Once again, it was proved that the applicant's father had mis-appropriated the money contained in four Insured letters and 3 money orders, besides keeping Post Office balance short of Rs.1386.65 Ps. It is important to mention that the applicant's father had accepted the mis-

appropriation of Government money in his statement dated 26.7.1996. Thus, it is clear that the applicant's father was involved in the cases relating to serious financial irregularities and mis-appropriation of Government money. But, before the disciplinary proceedings could be started, against him, he expired on 11.4.1997. It is in view of these facts, that the respondents have relied on Circular dated 15.2.2001 (Annexure-3) to state that extension of Welfare measure to the dependent of an EDA dying in harness can only be justified when the performance of the EDA was found to be satisfactory and since the applicant's father was found to be in serious irregularities of Government money including mis-appropriation of Government funds, naturally, his son could not be considered for compassionate appointment as it is a serious matter.

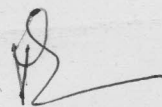
5. I have heard both the counsel and perused the pleadings as well.

6. The applicant has not disputed the fact that his father was involved in serious cases of mis-appropriation and irregularity with regard to Government money. All that he has stated ^{is} that his father was reinstated in service and was not punished. In view of the fact that the applicant's father was let off taking a lenient view of the matter, keeping in view his long service of 25 years, does not mean that the applicant's father was absolved of the serious irregularities committed by him. Compassionate appointment itself means a gesture of welfare and goodwill by the ~~Government~~



Government keeping in view the work done by the deceased employee. It goes without saying that such a gesture would not be permissible in the case of an employee who was subjected to departmental proceedings for some wrong doings. The circular dated 15.2.2001 makes it very clear. In view of the circular issued by the respondents, Department of Posts, I am convinced that the applicant has not made out any case for interference and it is also relevant to mention here that his father died way back in the year 1997 and he had even given his application in the year 1997. The period of limitation as per A.T. Act, 1985, is one year from the date of cause of action and in any case, if a representation is filed and the respondents did not dispose of the same, the maximum period laid down is 18 months. The applicant has not given any explanation as to why he did not approach the Court earlier and what is the fresh cause of action arising in the year 2001 forcing him to file the present O.A. The very fact that he did not even pursue his case for 4 years, shows that he was able to survive and manage without getting any immediate help from the Government.

7. Therefore, on this ground also, the O.A. has to fail. Accordingly, the O.A. is dismissed with no order as to costs.



MEMBER (J)