

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1624 OF 2004

ALLAHABAD THIS THE 2nd DAY OF Sept 2008

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

1. Rama Kant Yadav,
Son of Late Phagoo Ram Yadav,
Resident of Village Semari
Post Khaliya, Samari Tehsil Nizamabad,
District-Azamgarh.
2. Rama Shankar Yadav,
Son of late Phagoo Yadav,
Resident of village Semari,
Post Khaliya, Semari, Tehsil Nizamabad,
District-Azamgarh.

. Applicant

By Advocate : Shri R. C. Yadav

Versus

1. Union of India, through Secretary
Ministry of Communication, D/o
Chief Post Master General,
U.P. Parimandal, Lucknow.
2. Senior Superintendent of Post Office Azamgarh,
Division Azamgarh.
3. Circle Inspector Head Post Officer,
Azamgarh.

. Respondents

By Advocate : Shri Anil Dwivedi

ORDER

This application is filed for quashing of the impugned order dated 18.02.2003 passed by the respondent no.2, and for direction to the respondents to give compassionate appointment.

2. The brief facts of the case as per the applicant are that Late Phagoo Ram, left behind the applicants and wife Smt. Manorama Devi. While he was working as



a postman at the HPO Azamgarh died on 16.01.2000 in road accident. His terminal benefits were paid to the wife. The applicant no.1 submitted an application on 15.02.2000 to respondent no.2 for compassionate appointment. The applicant no.2 also submitted an application dated 05.02.2003, without their being any enquiry made by the respondent no.2 or 3 about the family status of the applicants erroneously passed the impugned orders dated 18.02.2003 rejecting the request of applicant no.1. The applicant no.2 application is pending with the respondents, hence this OA is filed for the relief. The applicants have also filed rejoinder, reiterating the same statements made in OA.

3. On notice the respondents have filed the counter affidavit and stated that the father of the applicants Shri Phagoo Ram Yadav was working in the department of answering respondent since 13.07.1981 and his date of birth is 02.11.1942. His retirement was on 30.11.2002. The father of applicants who was working on the post of Post Man expired on 16.01.2000. At the time of death, the deceased left behind his wife, Smt. Manorama Devi, four sons (all married) and one daughter (married). The applicants' father:-

| | |
|------------------|------------------------------|
| DCRG | Rs.62844=00 |
| GPF | Rs.41449=00 |
| PLI | Rs.10000=00 |
| CGHS | Rs.42200=00 |
| Leave Encashment | Rs.48530=00 |
| Others | Rs. 834=00 |
| Total | <u>Rs.2,05,857=00</u> |

Besides this the widow is drawing family pension Rs.1897/- + DP Rs.949/- + DAR Rs.598/- + medical



Rs.100/- Total Rs.3544/- per month. It is further submitted by the respondents that the family of the deceased is having own house in village in Khalia Semari (Nizamabad) and Kolghat (Azamgarh). Family having agricultural land also. Widow Smt. Manorama Devi proposed her second elder son Shri Rama Kant Yadav for the employment on compassionate ground. After completion of synopsis, the case was sent to Chief Post Master General, U.P. Circle, Lucknow. The case was considered by the circle Relaxation Committee keeping in view the various instructions on the compassionate appointment issued by the Ministry of Personnel Affairs (Department of Personnel and Training) and the availability of vacancies for compassionate appointment within the limited number of vacancies under 5% quota for direct recruitment and the circumstances of the family of deceased official. The family was also not found in indigent circumstances in comparison to the cases, which were recommended for appointment on compassionate ground by the Circle Relaxation Committee within limited number of vacancies. The status of family of applicants are given below:-

| | |
|------------------------|--------------|
| Family Pension | Rs. 3544=00 |
| Terminal Benefits | Rs.205857=00 |
| Own House | |
| Agricultural land | |
| One son is employed as | |
| Junior Engineer | |

It is further submitted by the respondents that the decision of circle relaxation committee was communicated to the widow Smt. Manorama Devi vide letter dated 18.02.2003. It is also pertinent to

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mention here that as per direction of Hon'ble Supreme Court of India, it has been held that the appointment should be made strictly on the basis of open invitation of application and merit and appointment on compassionate ground is an exception to the rule. Any such exception should therefore be made to minimum possible extent say 1 or 2 percent or maximum of 5%. The Hon'ble Supreme Court has held that this rule has been framed for department employee. It is submitted that the widow Smt. Manorama Devi proposed for employment on compassionate ground in favour of applicant no.1 for which synopsis was submitted for consideration. Therefore there was no need for enquiry on the application of applicant no.2. All four sons of ex-official are major have own family. First son Ramashrey Yadav is Junior Engineer at Mirzapur, Second Rama Kant yadav aged about 33 years doing nothing. Third Rama Shanker Yadav aged about 31 years performing business of grain selling and fourth son Uma Shanker yadav aged about 28 years working in own repairing shop of Scooter Motorcycle as per office record dated 01.05.2000, Ishrawati Devi W/o fourth son Shri Uma Shanker Yadav is also working in the department as Extra Departmental Branch Post Master, Khalia Seemari (Nixamabad) Azamgarh since 1994. The respondents have also filed supplementary counter affidavit clarifying the statements made in the counter affidavit with reference to the rejoinder filed by the applicants.



4. I have heard the learned counsel for the applicant and the learned counsel for the respondents and perused the pleadings and the materials on record. It is seen from the impugned order that the respondents have considered the case of the applicants for compassionate appointment, and having regard to the facts and circumstances of the applicant's family have come to the conclusion based on the financial condition of the receipt of the amount after the death of the deceased, and further in view of the fact that the family is having agricultural land, with own house and the son of the deceased employee based on these circumstances of the deceased family, and further having found the family is not placed in indigent condition, in comparison with the other cases of similar nature and rejected request of the applicants. In view of this I do not find any justification in interfering with the impugned order passed by the respondents. The main consideration while appointing the a person on compassionate grounds should be the financial condition of the family. The deceased person left behind, is without any means of livelihood and living hand to mouth and the authority has to exercise the discretion keeping in view of the object behind it. In the present case the competent fact finding authority, on the basis of the financial details had arrived at the conclusion that the financial condition of the family is not bad, and they can maintain themselves. In view of these facts and circumstances, the order of respondent is just and



proper, and therefore the grounds of the applicant cannot be accepted for grant of the relief claimed. The respondents have made out a case for dismissal of the OA.

5. In view of the foregoing reasons the OA is dismissed. No Costs.


Member-J

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