

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.

THIS THE 2nd DAY OF February, 2007

QUORUM : HON. MR. K. ELANGO, J.M.

ORIGINAL APPLICATION NO.791 OF 2004

Shailendra Singh, Son of, Late Veer Pal Singh,
Resident of, Village & Post Sakaree Jungal, District
Badayun

..... Applicant.

Counsel for applicant : Shri S.R. Pandey.

Versus

1. Union of India, through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Superintendent, Post Office, Badayun Division, Badayun.
3. The Assistant Director (Recruitment), Office of Chief Post Master, U.P. Circle, Lucknow.
4. The Post Master General, Bareilly.

..... Respondents.

Counsel for Respondents : Sri S. Singh.

ORDER

The applicant filed this O.A. for compassionate appointment for him. The brief facts of the case are as follows.

2. The father of the applicant Shri Veer Pal Singh was working as Postal Assistant in the Head Post Office, Badayun and died on 14.5.1999 during service leaving behind his wife and three minor sons and one minor daughter. The applicant, being the eldest son was aged about 16 years, the daughter about 13 years, the second son was about 10 years and the youngest son was of 5 years at the time of their father's death. The wife of the deceased Smt. Raj Rani, being

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illiterate under the whole responsibility of the family, made an application on 13.7.1999 (Annexure-1) for compassionate appointment for her eldest son, the applicant herein and the same was not considered because he was a minor, aged about 16 years and so the applicant, after completing 18 years, submitted an application for compassionate appointment on 19.6.2001 (Annexure-2) along with certain documents in support of his claim as well as the assessment of the Additional District Magistrate, Badayun to the tune of Rs.6430/- per year as could be born from certificate dated 12.8.2002 and 19.7.2001 (Annexure-3). On receipt of the same, the Respondents took-up the matter, got it enquired and it was stated that the family of the deceased employee has received a sum of Rs.2,30,718/- as terminal benefits from the department. Besides this, the family of the deceased employee is getting family pension of Rs.2,250/- plus D.A. per month and the family possesses immovable property i.e. agricultural land of .59 Hectare worth Rs.25,720/- and the applicant is earning Rs.850/- per month by working as a Majdoor/Labour. For the foregoing reasons, the Respondents rejected the claim of the applicant vide their letter dated 28.4.2004 (Annexure-4).

3. I have heard the learned counsel for applicant Shri S.R. Pandey and Shri Saumitra Singh, learned counsel for respondents and perused the materials on record.

4. Counsel for the applicant submits that the Respondents have not considered the request of the applicant for compassionate appointment objectfully and their action is arbitrary, malafide and violative of Article 14 of the Constitution of India and the applicant has been visited with civil consequences and no reasonable opportunity was given in as much as the Respondents have failed to decide the case of the

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applicant objectively and there was no material and evidence on record to deny the appointment by the Respondents to the applicant on compassionate ground as he fulfilled all the requirement for being appointed on a suitable post in the office of the Respondents on compassionate ground.

5. It is further submitted by the counsel for applicant that on 3.8.2004, the Tribunal directed the counsel for Respondents to produce the original Circle Relaxation Committee report on the next date of hearing i.e. on 31.8.2004 but no notices were issued to the Respondents in regard to it and on 31.8.2004, the Tribunal ordered for personal appearance of Respondent No.2 if the said report was not produced.

6. Counsel for the applicant further submits that the Respondents have neither produced the report of C.R.C. nor presented in the Court despite the Tribunal's order passed on 3.8.2004 and subsequent dates of hearing but they were misleading the Court by seeking time for producing the C.R.C. report.

7. On the other hand, learned counsel for Respondents contended that it was necessary for them while considering the application for compassionate appointment, according to Government rules to assess the assets and liabilities, terminal benefits received by the family and to measure the indigent circumstances of each case and offer employment to most deserving cases in only 5% of the vacancies. In the instant case, the request of the applicant could not be approved for compassionate appointment by the Committee taking into account the above assessment. He further contended that the death of an employee in harness does not confer any right on the family members to get an appointment on compassionate ground. In support of his contention, Counsel for Respondents relied on the Judgment of Apex Court in the case of

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U.K. Nagpal Vs. State of Haryana and others reported in JT 1994(3) SCC 525 in which the Hon'ble Supreme Court has held as under :-

"As a rule of appointment in public service should be made strictly on the basis of open invitation of applications and merits and appoint on compassionate grounds in exception to the rule. Any such exception should, therefore, be made to the minimum possible extent say 1 or 2% of maximum of 5% and if it exceeds that it will no longer be an exception."

He also relied on the Judgment in the case of Himachal Road Transport Corporation Vs. Dinesh Kumar, reported in JT 1996(5) SCC 319 on 7.5.1996 and Hindustan Aeronautics Limited Vs. A. Radhika Tirumalai, reported in JT 1996(9) SCC 97 on 9.10.1996 which has ruled out that the appointment on compassionate ground can be made only if a vacancy is available for that purpose. He further relied on the another Judgment of the Apex Court in the case of LIC of India Vs. Asha Ramchandra Ambekar and others, reported in JT 1994(2) SCC 183 that the High Court and Administrative Tribunals cannot give directions for appointment of a person on compassionate ground but can merely direct consideration of the claim for such appointment.

8. On perusal of the order sheets in this O.A., I find that there are a number of directions passed by this Tribunal to the counsel for Respondents on various dates from 3.8.2004 to produce the circular of Relaxation Committee proceedings to decide the matter at the admission stage but it is unfortunate and painful to note that the same has not been produced by the Respondents and so this case came up finally on 20.12.2006 and heard in non-compliance with the above direction. This would reflect as to how the Respondents acted in the case of compassionate appointment.

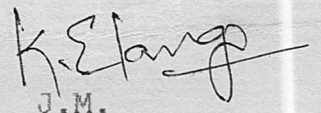
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9. In view of the above, I think perhaps there might be some favourable report in the C.R.C. for compassionate appointment to the applicant and that is why the Respondents were hesitating to produced the report of C.R.C. despite the directions of the Tribunal on various dates of hearing of this O.A. In all expectations, the Respondents, which took into account the extent of terminal benefits, received by the family, would not have considered the extent of expenses incurred upon the medical treatment, if any and the marriage of the daughter of the deceased for purposes of comparison with the other cases the penury condition of the family.

10. Though there are so many limitations for compassionate appointment and no vested right is available with the applicant, the applicant is entitled to the Right to Information. The Respondents are duty bound to inform as to how the case of the applicant was not found deserving. The information should be made available at least to the Court, if they do not inform to the applicant.

11. Hence, under these facts and circumstances of the case, I am of the considered view that the impugned order is violative of their instructions and the Respondents are directed to consider the case of the applicant for compassionate appointment as per Government rules. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

12. The O.A. is disposed of with the above direction.
No order as to costs.


J.M.

Asthana/-