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RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.**

ORIGINAL APPLICATION NO. 1215 OF 2005.

ALLAHABAD THIS THE <sup>11th</sup> DAY OF JANUARY 2008.

Hon'ble Mr. Justice Khem Karan, V.C

Km. Pratibha Singh, daughter of late Harindra Nath Singh, resident of Village and Post Lahasani, District Ballia.

.....Applicant

(By Advocate: Shri Kritikar Pandey)

Versus.

1. The Union of India through Secretary, Ministry of Communication (Post), Central Secretariat, New Delhi.
2. The Chief Post Master General, U.P. Circle at Lucknow.
3. The Superintendent of Post Offices, Ballia Division, Ballia-277001.

.....Respondents

(By advocate: Shri Saumitra Singh)

O R D E R

Km. Pratibha Singh, daughter of late Harinder Nath Singh, who died in harness on 23.7.2004, is praying for quashing the impugned order dated 29.4.2005 (Annexure A-1) by which her claim for compassionate appointment under Dying In Harness Rules has been rejected, and is further praying for commanding the respondents to appoint her on any post in case III.

2. There is no dispute between the parties that applicant's father was in employment of the respondents and after serving for more than 25 years, he died while still in service. Applicant's mother gave one application to respondent NO. 3, for payment of terminal benefits and for giving compassionate appointment to the applicant. It was stated that the deceased left behind him Smt.

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Suryamukhi Devi, widow, Smt. Poonam Singh, married daughter and the applicant and family was indigent one as it had no definite source of income. Applicant also approached the respondent NO. 3 for her appointment on compassionate ground. Copy of the application dated 2.2.2005 is Annexure A-5. Applicant says that she is M.A. in Sociology and is eligible for appointment on any post in Class III. The respondents have rejected her claim by communication dated 25.4.2005 issued by respondent NO. 3 on the basis of letter dated 25.4.2005. She is challenging this rejection on the ground inter-alia that her claim was not considered objectively and the fact that her elder sister Smt. Poonam Singh together her husband and two minor children were dependant on the deceased, has not been taken into consideration. It has also been said that deceased had only half Bigha land with her which was inadequate enough to sustain the family but the same was wrongly taken to be sufficient enough for sustenance of family.

3. The respondents have filed reply contesting the claim of the applicant. They say in view of existing instructions contained in letter dated 24.9.1989 (Annexure CA-1) and letter dated 9.10.1998 (Annexure CA-2), compassionate appointment to one of the dependents of the deceased servant is given against 5% vacancies of direct recruitment only and is possible only if the family is found to be indigent one. Reference to U.K. Nagpal Vs. State of Haryana and others, Judgment Today 1993 (3) Supreme Court 525, Himanchal Road Transport Corporation Vs. Dinesh Kumar, Judgment Today 1996 (5) SC 319, Hindustan Aeronautics Limited Vs. Smt. A Radhika Thirumalai JT 1996 (9) SC 197 and LIC Vs. Mrs. Asha Ram Chandra Ambekar and Ors JT 1994 (2) SC 183 has been made with a view to say compassionate appointment is not a regular source of recruitment but is by way of exception



just with a view to help the family to tide over the economic crises created by sudden death of bread earner and since in the case in hand, the family received terminal benefits to the tune of Rs.6,97,000/- and the widow was getting family pension at the rate of Rs.5455/- + Dearness Relief so the Circle Relaxation Committee did not find the applicant's case fit one for such appointment. The sum and substance of the defence is that on examination of the case in accordance with the relevant guidelines regulating such appointment, the Circle Relaxation Committee did not find applicant's family as indigent so it did not recommend the case for compassionate appointment.

4. By filing rejoinder affidavit, applicant has tried to say that in District Ballia only, there are more than 50 vacancies in Class III and so rejection of the claim of the applicant on the ground of non-availability of vacancies in 5% quota is totally unjustified.

5. The respondents have said in para 6 of the supplementary reply that it is not correct to say that such number of vacancies in Group 'C' are lying vacant. According to them, the case of the applicant was considered keeping in view the guidelines on the subject and the same was rightly rejected.

6. I have heard Shri Kritikar Pandey, appearing for the applicant and Shri S. Singh, the Senior Standing Counsel for the respondents and have perused the entire material on record.

7. It is needless to reiterate that in view of law laid down by the Apex Court in cases referred to above, compassionate appointment under Dying In Harness Rules is

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not a regular source of recruitment and it is offered to a family which is found to be indigent one and that too against limited 5% of the vacancies of Direct Recruitment. As the number of such claimant is often more, than number of vacancies in 5% quota in a year, so claims of all such candidates are examined in accordance with relevant Guidelines by applying the parameter set out therein. These parameters are just with a view to find out as to whose case is more genuine as compared to others. So Tribunal has to examine whether the case of the particular applicant, who approaches the Tribunal, has been examined objectively in accordance with relevant Guidelines. It is for the applicant to demonstrate that the case was not so examined in the light of the relevant guidelines, as there is no presumption that examination of claim by Circle Relaxation Committee or by any other Authority, was not as per guidelines issued by the Govt. or by the Department. The presumption is always that it was as per guidelines issued in this behalf and one who challenges that examination as bad, has to demonstrate and satisfy that the same was not as per the guidelines and the same was not done objectively. There is no allegation that any of the members of Circle Relaxation Committee was biased against the applicant or disposed in favour of the candidates whose cases were recommended for such appointment.

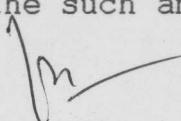
8. Shri Kritikar Pandey, the learned counsel for the applicant has contended that the Committee did not take into consideration, the fact that applicant's married sister, Smt. Poonam was dependant on the deceased and after him on the family of the deceased and so the rejection is vitiated for that reason. He says that applicant is unmarried daughter of the deceased and in case she gets appointment chances of her marriage, will be brightened, so the respondents should be asked to

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reconsider her case for compassionate appointment. It has also been argued by Shri Pandey that deceased had only half Bigha land with him and the same is too little to provide any permanent source of income. He has also said that terminal benefits as well as family pension could not have been taken into consideration for deciding the claim of the applicant for compassionate appointment.

9. On the other hand, Shri S. Singh, the learned counsel for the respondents has contended that receipt of terminal benefits and the family pension being relevant one for deciding the question as to whether the family was indigent, so the same was rightly taken into consideration. He has also argued that the fact that applicant's sister together with her husband and two minor children was dependent on the deceased was not mentioned by the applicant and the same could not have changed the fate of her claim.

10. In view of law laid down by the Apex Court in a recent case namely Union of India Vs. M.T. Latis, reported in 2006 (8) Supreme Court Today on page 524, such terminal benefits and the family pension can be taken into consideration for deciding the question as to whether family is indigent or not, so no fault could be found, if the same were taken into consideration, by Circle Relaxation Committee. In such cases, the basis for offering the compassionate appointment is the economic condition of the family as the purpose is to assist the family to tide over the economic crises, so created by sudden death of servant. If family has sufficient means for its sustenance, the question of compassionate appointment should not arise in view of law laid down by the Apex Court in U.K. Nagpal and other case (supra). If the amount of terminal benefits or family pension is to meagre or nominal one, the same may not be sufficient to say that family is not indigent but if the such amount is



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substantial one, the Authorities may be justified in saying that the family is not indigent so as to require assistance by way of compassionate appointment. In the case in hand, amount of Rs.6,97,000/- received in the shape of terminal benefits and the amount of family pension @ Rs. 5455 plus Dearness Relief a month can be said to be substantial one and not nominal one. The liability ~~as~~<sup>is</sup> that of unmarried daughter only and widow. Even if we accept that married daughter of the applicant and her two minor children were living with her mother, the said amount cannot be said to be inadequate for sustenance of the family. I am of the view that applicant has not been able to demonstrate that the respondents were unjustified in rejecting her claim for compassionate appointment under Dying In Harness Rules. There are no good grounds for interference of the Tribunal.

11. So the O.A. is dismissed with no order as to costs.

*Manish*  
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Vice-Chairman

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