

(6)

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ALLAHABAD this the 15th day of Sept., 2006.

HON'BLE MR. P.K. CHATTARJI, MEMBER- A

ORIGINAL APPLICATION NO. 1243 OF 2005

Prem Prakash Gupta, S/o Late Ved Prakash Gupta,
R/o Ekta Nagar, Kundanpur Line Par, Distt. Moradabad.

.....Applicant.

VE R S U S

1. Union of India through Secretary,
M/o Communication, D/o Post,
Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, U.P. Circle,
Lucknow.
3. Post Master General,
Bareilly Region, Bareilly.
4. Senior Superintendent of Post Offices,
Moradabad.

.....Respondent

Counsel for the Applicant:

Sri S.K. SHUKLA

Counsel for the Respondents :

Sri SAUMITRA SINGH

OR D E R

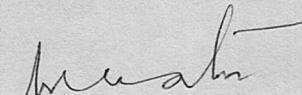
The applicant by this O.A has sought the direction of this
Tribunal directing the respondents to provide him job under
compassionate quota.

W. C. A. M.

2. The father of the applicant, who was working as Assistant Post Master under Senior Superintendent of Post Offices, Muradabad, expired on 11.11.1999. Thereafter, widow of the deceased made a representation on 27.12.1999 for providing employment in favour of her son, the present applicant. On 21.09.2000, the applicant submitted a proforma application to respondent No. 4 for consideration and on 05.03.2001, in compliance of the instruction of respondent No. 4, information relating to property and details of financial position of the family was furnished. However, on 06.09.2002, the respondent No. 4 had informed the applicant that his request for appointment under compassionate quota was not approved. Copy of letter dated 06.09.2002 is annexed as Annexure A-6.

Aggrieved by the aforesaid order, the applicant filed O.A No. 211/2003 seeking direction to the respondents to give suitable employment to him. The Tribunal vide order dated 22.11.2004, quashed the order dated 06.09.2002 and directed the respondents to reconsider the case of the applicant for compassionate appointment. However, vide order dated 30.05.2005, the respondent No. 2 again rejected the applicant's case for appointment on compassionate grounds. Copy of the order dated 30.05.2005 is annexed as Annexure A-8.

3. The applicant has now sought the direction of this Tribunal to the respondents to provide him a job in compassionate quota as the family was in extremely bad financial position after death of his father. The applicant has cited that the family still has a lot of liabilities of education and marriage of brothers and sisters and present source of income is not sufficient for survival.

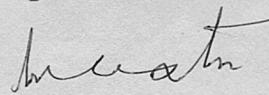


(A)

4. The respondents in their submissions have stated that the case of the applicant was considered more than once by the appropriate authority. However, it could not be approved for the reasons that there were large number of cases of compassionate appointment against limited number of vacancies and thus the case of the applicant could not be approved after *inter se* examination of merit. Learned counsel for the respondents cited judgments of Hon'ble apex Court, in which it has been laid down that the compassionate appointment cannot be claimed as a matter of right. It was only the right to be considered that he could claim. In this case, this right was not infringed as the case of the applicant was considered.

5. The point which needs to be decided is whether the impugned order dated 30.05.2005 (Annexure-8) is adequate and proper compliance of the order of the Tribunal dated 22.11.2004. Let us look at the relevant portion of the judgment as follows : -

..... Thus the plea of the respondents regarding the receipt of family pension as well as retiral benefits cannot be sustained in law and is negatived. The second ground taken by the respondents relates to the fact that he has a house and the deceased has served for a period of 29 years. this cannot be a reason for rejecting the case of the applicant as a house does not help the family to get over the financial crisis and a small house is to accommodate as many as 4 persons. The respondents have completely ignored that the applicant has a younger sister who is to married and younger brother who is to study. Further if all these things are taken together, I can see by no stretch of imagination that the financial condition of the applicant is sound. The plea of the respondents that deceased while left with only few years of service before



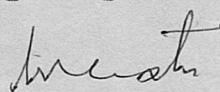
(9)

retirement leads me nowhere and by implication is incomprehensible. Lastly, I would like to mention that Circle Relaxation Committee could not find him fit as compared to other deserving candidates without mentioning any ground except the grounds mentioned in the impugned order as stated above. These grounds are not convincing and they have not been able to appreciate the real problem of the family and the financial status in which they were living. Accordingly the O.A is liable to succeed.

8. In view of the discussion made above, the O.A succeeds and is allowed. The impugned order dated 06.09.2002 is quashed. The respondents are directed to reconsider the case of the applicant for compassionate appointment and this may be done within a period of six months from the date of receipt of a copy of this order. No costs."

6. Now let us look at the compliance of the order dated 30.05.2005. The Tribunal was of the view that the plea of the respondents on pension and retirement benefits and possession of a house was not sustainable. This seems to have been taken in to account by the CRC as the order dated 30.05.2005 would imply. The order cites the relevant Apex Court judgment that the financial status of the family of the deceased should be considered in taking a decision. The learned counsel for the respondents reminded that what the order of respondents purports to convey is that in assessing the financial position, the total pension as well as monthly earning have to be considered and so the retiral benefits cannot be excluded.

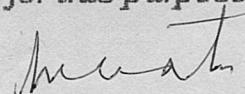
7. The Tribunal further observed that the applicant was not considered suitably by the Circle Relaxation Committee compared to other deserving candidates without mentioning the grounds. Let us



see what the relevant para of the order dated 30.05.2005 as to say in this regard : -

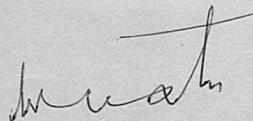
5. However, in pursuance of the above orders of the Hon'ble CAT, Allahabad, the case was reconsidered by the Circle Relaxation Committee in its meeting held on 10th, 11th and 12th March, 2005 under the provisions of DOPT OM No. 14014/6/95-Estt (D) dated 26.09.1995, 14014/6/94-Estt(D)dated 09.10.1998 and 14012/23/99-Estt(D) dated 03.12.1999 and other instructions issued from time to time on the subject and also instruction issued vide Postal Directorate No. 66-59/2004-SPB-I dated 29.09.2004, but after taking into account the inter-se merit of all cases in terms of assets and liabilities and indigence of the families like total number of dependents, minor children, marriage of daughters, responsibility of aged parents, prolonged and major ailments, financial conditions and other relevant factors in accordance with the guidelines prescribed by the Apex Court, the case was not recommended for compassionate appointment.

6. Specific purpose of the scheme for compassionate appointment is to provide immediate support to the family of the Govt. employee, who is left in penury and without any means of livelihood so as to help to get over the financial crisis. Such appointment are also restricted to 5% of vacancies available for direct recruitment quota vide DOPT , Nodal Department, M/o Personnel (Department of Personnel P&G Pension), the Hon'ble Supreme Court of India has also ruled out in the case of Himachal Road Transport Corporation Vs. Dinesh Kumar (JT.1996(5)SC 319) dated 07.05.1996 and Hindustan Aeronautics Ltd. Vs. Smt. Radhika Thirumalai (JT 1996 (9) SC 197) dated 19.10.1996 that the appointment on compassionate grounds can be made only if the vacancy is available for this purpose.



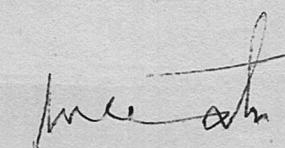
(11)

7. The ex-official died more than 5 years before the time the Circle Relaxation Committee reconsidered the case. After a lapse of these years, the basic purpose of providing immediate assistance is not relevant. As per the advise dated 07.07.2000 from DOPT, fresh cases should be given preference over past cases so as to help the family which is in indigent and deserves immediate assistance for relief from financial destitution to get over the emergency. The guidelines of the scheme, require assessment of the financial condition of the applicant for such appointment as it is clearly laid down by the Hon'ble Supreme Court in judgment dated 04.05.1994 in the case of U.K. Nagpal Vs. State of Haryana and others (JT 1994 (3)SC 525 that offering compassionate appointment as a matter of course irrespective of financial condition of the family concerned is legally impermissible. It is also observed by the Apex Court that the compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right, which can be exercised at any time in future. The Hon'ble Supreme Court has also ruled in the cases of Himanchal Road Transport Corporation Vs. Dinesh Kumar (JT 1996(5)SC 319) dated 07.05.1996 and Hindustan Aeronautics Ltd. Vs. Smt. Radhika Thirumalai (JT 1996 (9) SC 197) dated 19.10.1996 that the appointment on compassionate grounds can be made only if a vacancy is available for that purpose. As already mentioned in accordance with instructions from DOPT the nodal department, the fresh cases are to be given preference over past cases so as to help the family which is in indigent and deserves immediate assistance for relief from financial destitution to get over the emergency which does not appear to be the case here."



(12)

8. It would be evident from the above that the request of the applicant was considered by the CRC objectively with due regard to the guide lines of the DOPT as well as the various decisions of the Apex Court on the question of compassionate appointment. Therefore, on this point also, I am not able to agree that the order passed by this Tribunal earlier was not complied with. The O.A, therefore, does not succeed and is dismissed with costs.



MEMBER- A.

/ANAND/