

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1411 of 1988

Shri Prakash

..... Applicants.

Versus

Union of India & others

..... Respondents.

Hon'ble Mr. A.K. Sinha, Member-J

The applicant Shri Prakash has filed this application under Section 19 of the Administrative Tribunal's Act, 1985 with a prayer to set aside the impugned order dated 21.3.1988 contained in Annexure-1 passed by respondent No. 2 rejecting his prayer for appointment on compassionate ground under the relaxation of recruitment Rules with a direction to the respondent No. 2 to appoint the applicant under suitable post under the relaxation Rules within a specified period.

2. Shortly stated the facts giving rise to this application are as follows:

Applicant's father late Ram Khelawan served for 30 years on the post of Head Post Master Basti at Head Post Office. On account of medical grounds he was offered invalid pension on 7.8.1980 although his actual date of superannuation was 7.1.1984. Unfortunately the said Ram Khelawan died on 9.6.1982. While he was alive he had moved an application dated 22.10.1980 before the respondents for suitable appointment of his son, the applicant, under the relaxation Rules. After the death of the applicant's father, his mother, that is the widow of late

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Ram Khelawan made various allegations before the authorities for appointment of her son on compassionate ground, but, without any success. Ultimately, the applicant approached the Minister of communication by means of representation and thereafter the respondent No. 2 was directed to expedite the matter. It is alleged that instead of giving any suitable appointment to the applicant the respondent No. 2 rejected the representation on 21.3.1988 by means of impugned order without giving any reason and passed non speaking and creptic order.

3. On these allegations the applicant sought for the above relief.

4. Respondents appeared on notice and denied the allegations by filing their Counter Affidavit stating inter alia that the applicant does not fulfil the condition of an indigent family and as such there was no justification for her appointment on compassionate ground. It was stated that the representation of the applicant was duly considered by the Circle Committee and was rejected and the order was passed by the respondent No. 2 by the impugned order. It is further stated that out of 4 sons of the deceased Ram Khelawan, 2 were in Government service; one is employed as Clerk in Hharraiya Block Basti and the another in Gram Sevak Pauri Garhwal. It was further stated that the said late Ram Khelawan was retired on 2.8.1980 on invalidation ground after rendering 33 years

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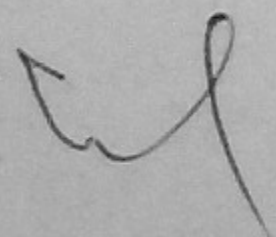
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an odd months service and was given terminal benefits in as much as the DCR gratuity of Rs. 7062 and GPF Rs. 1,829 were given to him and, therefore, the family cannot be said to be in indigent circumstances. It is further stated that the widow is drawing a pension of Rs. 375+ DA. On all these grounds, it was prayed that the applicant does not fulfil the condition of relaxation Rules for appointment on compassionate ground.

5. The question for consideration is whether the applicant is entitled to the relief claimed!

6. I have heard the learned counsels of the parties and perused the pleadings and the documents filed by the parties. It has to be noticed that the widow of the deceased employee is getting pension of Rs. 375+DA besides the amount of D.C.R.G and G.P.F. amounting to Rs. 9891/- (7062 DCR+Rs. 1829/- GPF) was paid to her. The late Ram Khelawan was retired on 2.8.1980 after completing 30 years of service having been rendered by him on invalidation ground, about a little over 4 years prior to the date of his actual superannuation. It is also to be noticed that while late Ram Khelawan was alive and was made to retire on 2.8.1980, on medical grounds, he had filed an application dated 22.10.1980 to the Competent Authority, the respondents, for appointment of his son, the applicant, on compassionate ground, but, nothing

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was done by the respondents at that time when the Rule made such a provision for appointment of a son on compassionate ground.

7. It is undisputed fact that the Director General of Posts Telegraph had issued letter No. 43-212/79/PEN dated 4.8.1980 clarifying the stand to be taken by the department while considering the question of compassionate appointment to the dependants in case of death etc. In paragraph 5 under the heading Compassionate appointment to the dependants in the case of death etc. it reads as follows:

"The question of providing some E.D. Posts to the dependant of E.D. agents in case of death/infirmity of an E.D. agents has been under consideration of the Government for quite sometime past. It has now been decided that a suitable job in E.D. cadre may be offered to one dependant of E.D. official who dies while in service leaving the family in indigent circumstances subject to the conditions applicable to regular employees who die while in service or retire on invalid pension. Such employment to the dependant who, however, be given only in very hard and exceptional cases."

8. This is a circular dated 4.8.1980 issued by the Director General of Posts and Telegraphs department. It appears from paragraph 5 that the deceased employee who belongs to this category can claim appointment on compassionate ground of his son, and, as a matter of fact, the deceased employee while in service being medically made

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unfit for the job and was retired on 7.8.1980 although his superannuation was due on 7.1.1984, made an application on 25.10.1980, Annexure-3 and while the same was pending he died on 9.6.1982. There is, therefore, no doubt about the fact that the father of the applicant declared medically unfit while in service since he was suffering from T.B. It is nowhere mentioned in the circular of the respondents dated 4.8.1980 that the employee has to be declared medically unfit/crippled before he completes the age of 58 years. The term used is "while in service". The father of the applicant admittedly would have been in service up to 9.6.1982 but for his being declared medically unfit he was retired on 7.8.1980. In my opinion, therefore, he was declared medically unfit while in service and the circular of the respondent applies to his case.

9. I have gone through the records of this case. In my view, this is a fit case in which the applicant deserves to be appointed on compassionate appointment. There is nothing on record to indicate that the applicant's mother with whom the applicant ^{is} living ^{is} being supported by his other brothers and that they are living jointly. On the contrary, the fact is otherwise; the elder brothers of the applicants are living separately since the life time of their father and the applicants father was medically declared unfit to continue in service and even after he was retired,

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all the paltry sum ^{paid} towards GPF and Gratuity exhausted on the medical treatment of the deceased Ram Khelawan who was suffering from T.B. and thus the widow and her two unprovided ^{who} sons including the applicant ^{are} to dependant upon the meagre amount of Rs. 375+DA and there ^{being} nothing else to fall back upon for the support of the family, in that situation, the family of the deceased is, obviously, in indigent condition and, in the circumstances, the applicant deserves to be appointed on compassionate grounds.

10. In the result, the application is allowed and the respondents are directed to appoint the applicant on some suitable job subject to his qualification and medically found fit within a period of three months from the receipt of this order under the relaxation Rules ~~for appointment~~ on compassionate grounds.

In the circumstances there will be no order as to cost.

Ashok Kumar Singh,
Member-J

Allahabad Dated: 12.4.93

(JW)