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RESERVE

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Dated: Allahabad this..6th .day. of May, .1996

CORAM: Hon'ble Mr S.Dayal, AM

ORIGINAL APPLICATION NO.1832 OF 1994

Jitendra Kumar son of Sri Bahal Ram
aged about 30 years , resident of House
No. 1122/5, Lariapur, Post Sultanpur,
District Sultanpur - Applicant

(By Advocate Sri O.P.Gupta)

Versus

1. Senior Superintendednet of Post Offices
Allahabad Division, Allahabad.
2. Chief Post General U.P. Circle
Lucknow
3. Union of India through Secretary, Ministry
of Communication, Government of India, New
Delhi - Respondents

(By Advocate Sri S.C.Tripathi)

ORDER

(By Hon'ble Mr S. Dayal , Member (A)

It is an application u/s 19 of the Administrative Tribunal Act 1985.

2. The applicant seeks the relief of quashing of orders dated 3.8.93 and 4.7.94 and of a direction to the respondents to give compassionate appointment to the applicant as early as possible by creating a supernumerary post if necessary.

3. The facts as disclosed in the application are that the applicant's father was working as a Postal Assistant in Hanumanganj, Post Office, was reported missing with effect from 27.8.98

4. The applicant lodged F.I.R. in Sarai Inayat Police Station on 16.2.90. Sometimes after this the police made a Final Report declaring that the missing person could not ^{be} traced out. Thereafter, on an application of the applicant's mother, family pension of Rs.605/- P.M. was sanctioned to her vide an order dated 10.3.92. Thereafter the mother of the applicant made an application to the Chief Post Master General, Lucknow, claiming that the condition of the family was poor and that her son was given compassionate appointment. The necessary papers of the case were called for by the Chief Post Master General, Lucknow, from the Senior Supdt. of Post Office, Allahabad, on 17.3.93 and they were sent by Senior Supdt. of Post Office, Allahabad, on 29.3.93. The applicant also attached a certificate of the Village Pradhan to the effect that he had no immovable proper and no source of income. He also

attached certificate of his belonging to the Scheduled Caste to his O.A. The Senior Supdt. of Post Offices vide his letter dated 24.8.93 informed the applicant of the decision of the Chief Post Master General, Lucknow, dated 3.8.93 rejecting the application of the applicant of the compassionate appointment on the ground that there was no visible liabilities and that the family was not found ^{to be} indigent circumstances. The applicant seems to have made a further request to the Chief Post Master General, Lucknow, to reconsider the case on 15.12.93. The Chief Post Master General informed vide his letter dated 4.7.94 that no reason was found to alter his decision taken earlier on his request for compassionate appointment. The arguments of O.P. Gupta counsel for the applicant and Sri S.C. Tripathi counsel for the respondent were heard. The pleadings have been perused.

5. The applicant has based his claim on the ground that his father died in harness that the actual financial position of the applicant was poor because there was no immovable and movable property and no source of livelihood. It is mentioned in the application that the applicant passed B.A. Examination in 1987 in 2nd Class but the marks sheet of B.A. 2nd year examination attached by him shows that he passed B.A. Part II in 3rd Division. It is mentioned that the family pension of his mother was Rs.605/- per month which would be reduced in June 1996 to Rs.375/- P.M. and that Rs.1500/- was paid as Gratuity to her.

6. That the mother was ill and require looking after. That the family of the applicant including his children require fooding lodging etc. and rent had to be paid of the house occupied by them. It is also mentioned in the claim that the applicant and the family of the deceased employee is not in a position to maintain itself after the death of the deceased employee, then compassionate appointment would be given. It is also mentioned that in several cases the

Hon'ble Court had decided that the competent authority cannot ~~be deemed~~ ^{refuse compassionate appointment} only on the petty ground that widow of the deceased employee is getting some amount as family pension.

7. The Respondents have mentioned in their counter reply that the father of the applicant dis-appeared / died less than $1\frac{1}{2}$ years before the date of superannuation. It is also seen that the Mother of the applicant had requested for induction of her son in the Postal Department. The application has mentioned his age in his Rejoinder dated 4.8.95 as 30 years which means that ~~the~~ ^{he} was 24 years of age at the time of dis-appear-nance of his father. Thus he was an adult. He had passed B.A. as per marks sheet produced by him along with A.O. in 1987 which was two years before the dis-appear-nance of his father. It is also mentioned by the respondents in their counter reply that the applicant ^{had} besides his mother ~~and his~~ ^a sister, who was married and was earning ^{her} livelihood by serving in the Education Department.

8. The claim of the applicant ~~that~~ if the family of the deceased employee is not in a position to maintain itself after the death of the deceased employee, compassionate appointment should be given cannot be accepted because if the family is in indigent circumstances immediately after the death of the bread winner, the compassionate appointment is considered subject to availability of the vacancy and the relative hardship of the applicants in comparison with others dependently applying for compassionate appointment. It is clear from the facts of the case that the family was able to maintain itself for ~~not less~~ ^{nearly} three years after the death of its bread winner and could also perform the marriage of the daughter besides the applicant had his own family and had ^{attained adulthood} ~~attended adult hood~~ long before he made application for compassionate appointment. He was in a position to sustain his mother and his own family till his mother was

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given family pension by the Respondent.

9. The applicant has cited the case of K.K. Tripathi Vs U.O.I. and others in O.A. No.1953/91 decided on 13.11.92 by the Bench of this Tribunal.

10. The facts of the case cited above are different from the case of the applicant. ~~In~~ so much as the applicant in that case was a minor when the bread winner of the family died. In that case the applicant was a child of 7 years on his father's death and there was a widow and three daughters to be looked after. Besides the Bench made an interpretation of ratio of Judgement of the Supreme Court in Smt Sushma Goswami and others Vs U.O.I. (A.I.R. 1989 Page 1976). It was held in that case the family pension of Rs.466/- per month and income of one bigha of land could not sustain a family.

~~It~~ It was ^{also} mentioned in the Judgement that no family could feed itself ~~with~~ ^{on} a sum of Rs.560/- per month. I, respectfully differ from this observation as the observation would be appropriate only in relation to the family of the deceased employee in that case. In the present case before us it was only the widow who could be considered to be a dependent of the deceased employee as both the son and daughter had been raising their own family and were adults long before the death of the bread winner.

11. There is ^{thus} no reason to interfere with the orders of the respondents passed on 3.8.93 and communicated on 24.8.93 rejecting the applicant's application for compassionate appointment and of 4.7.94 rejecting the request of the applicant for reconsideration of his application.

12. The application is, therefore, dismissed there shall be no orders as to costs.


MEMBER-A