

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLO. BENCH,  
ALLAHABAD.

DATED : ALLO ON THIS 70th DAY OF DECEMBER, 1997

CORAM : HON'BLE MR D S BAWEJA, MEMBER (A)

ORIGINAL APPLICATION NO. 748 OF 1995

1. Smt. Chandani, widow of Late Sri Jagdeo Singh  
R/o Village Khushand, Post Khushand,  
Distt. Banda.
2. Ram Babu S/o Late Sri Jagdeo Singh R/o  
Village Khushand, Post Khushand,  
Distt. Banda

.... Applicant

C / A :- Shri D.V. Singh

Versus

1. Union of India through the Secretary  
Ministry of Telecom, Samachar Bhawan,  
New Delhi.
2. Director, Postal Services, Kanpur Region  
Kanpur.
3. Senior Supdt. of Post Office, Banda

.... Respondents

C / R :- Km. S. Srivastava

ORDER

( By Hon'ble Mr. D.S. Baweja, A.M' )

This application has been filed seeking a relief for issue of direction to the respondents to give appointment on compassionate basis to applicant no.2.

2. The husband of applicant no.1 and the father of applicant no.2 Late Shri Jagdeo Singh while working as Extra Departmental Branch Post Master in Village & Post Khushand died on 18.9.93. The deceased employee left behind the family comprising of widow and three sons aged 35 years, 30 years & 18 years respectively. Since there was no earning member in the family, the applicant no.1 made a request for compassionate appointment for applicant no.2. However, applicant no.1 alleges that subsequently the Regional Inspector of Post Office took another application for giving compassionate appointment to her second son Shri Chhatra Pal Singh. However, Chhatra Pal Singh



is not living with applicant no.1 and also is careless and not able to maintain the family of applicant no.1. In view of this, she gave another representation dtd.17.5.95 to the effect that her third son i.e. applicant no.2 be given compassionate appointment. However, after waiting for more than two years for compassionate appointment, the present application has been filed on 25.07.95.

3. The respondents through counter reply have opposed the application. The respondents submit that <sup>the</sup> widow i.e. applicant no.1 submitted an application on 21.10.93 furnishing the particulars of the family and stating that her two sons have denied for Govt. service and, therefore, she desires that appointment for her third son Shri Ram Babu, who is applicant no.2, be given. Shri Ram Babu, applicant no.2 was not found eligible for compassionate appointment as he was under age as his date of birth is 05.10.77 and also he was non-matriculate. The minimum qualification for the post is matriculate as laid down in the extant rules as per letter dtd.12.03.93. Thereafter, applicant no.1 made a request for giving compassionate appointment to her second son Sri Chhatra Pal Singh. The case of Mr. Chhatra Pal Singh was forwarded to the competent authority. However, on verification of the character and antecedents, the Police authorities gave adverse report. In view of this, Chief Post Master General, Lucknow rejected the request for compassionate appointment of Shri Chhatra Pal Singh. This was conveyed to Sri Chhatra Pal Singh as per letter dtd.15.5.95. Subsequent to this, the sponsoring of names was invited from the Employment Exchange as per letter dtd. 26.06.95. After following the due process of selection, the appointment of the candidate has been made on 19.09.95 and he has also taken charge on 30.09.95. In view of this <sup>background,</sup> the respondents contend that as per the extant rules, neither Shri Ram Babu, applicant no.2 nor Sri Chhatra Pal Singh, second son were found eligible for appointment against the post of Extra Departmental Branch Post Master on compassionate ground. In view of these facts, present application is devoid of merits and deserves to be dismissed.

4. The applicant has filed rejoinder affidavit refuting the contention of the respondents and reiterating their grounds advanced in the original application. It is submitted that applicant no.2



is not under age but <sup>of</sup> 18 years of age and has also passed Prathma examination from Hindi Sahitya Sammelan, Allahabad as per marksheet dtd.22.5.95 and this examination is equivalent to matriculation. It is also reiterated that elder son is living separately and is not supporting the family and, therefore, the applicant no.1 & 2 have no means of livelihood, and therefore applicant no.2 deserves appointment on compassionate ground.

5. Learned counsel for the applicant cited the following judgments in support of ~~his~~ <sup>the</sup> claim for the reliefs prayed for:-

- (a) Sher Singh V/s State of UP & others (High Court, Alld) (1991) 1 UPLBEC 379 ).
- (b) Shishi Rendra Chaurasia V/s. District Inspector of Schools, Allahabad & Others (High Court, Alld) (1991) 2 UPLBEC 1057) .
- (c) Smt. Sushma Gosain & Others V/s Union of India & Others AIR 1989 Supreme Court 1976.
- (d) Surya Bhan Singh V/s. Commissioner, Gram Vikas, U.P., Lucknow & Others (High Court, Alld) (1989(1)UPLBEC 496).

6. I have heard Shri J.V. Singh, learned counsel for the applicant and K.M.S. Srivastava, learned counsel for the respondents. The materials brought on <sup>the</sup> record have been carefully gone through. From the facts as emerge from the rival contentions, it is noted that applicant no.1 had made a representation dtd.21.10.93, a copy of which has been brought at CA-3, indicating the particulars of the family and also intention for appointment on compassionate ground <sup>of</sup> for her 3rd son i.e. applicant no.2, who was under age and still studying at that time. However, subsequently applicant no.1 made a request for compassionate appointment <sup>for</sup> to her second son Sri Chhatra Pal Singh. She submits that request for compassionate appointment for the second son was made under pressure from her second son even though knowing that second son is not suitable for the post due to criminal activities. From the documentary evidence brought on record, the proposal for compassionate appointment of Sri Chhatra Pal Singh was processed and was submitted to the competent authority. However, Police verification for antecedents and character ~~gave~~ adverse report and Sri Chhatra Pal Singh was not considered fit for compassionate appointment. This was also advised by Chief Post Master General, Lucknow endorsing a copy to Sri Chhatra Pal Singh. From these facts, it is thus seen that the

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request for compassionate appointment as made by the widow had been considered and rejected. In the meantime, applicant no.2, who was minor in 1993 and also non-Matriculate became major in 1995 and had also passed Prathma examination which is claimed to be equivalent to Matriculation for the purpose of recruitment. Applicant no.1 thereafter made another representation dtd.17.05.95 making a request for compassionate appointment to the third son i.e. applicant no.2. The respondents have put up defence that applicant no.2 was ineligible for compassionate appointment in 1993 due to being under age and non-Matrisulation and the request made for second son was considered by the competent authority but on account of adverse police report he was not found fit for appointment. Since proposal for compassionate appointment had been considered as requested by the widow, the respondents contend that a fresh request for compassionate appointment for the applicant no.2 cannot be entertained. From the application of the widow of dtd.21.10.93, it is noted that she had clearly indicated her desire for compassionate appointment for the third son, who was minor at that time and was studying stating that she will make an application for the compassionate appointment when he attains the age of 18 years. Therefore, the contention of the respondents that the third son was ineligible in 1993 does not hold good and it cannot be taken that his case was considered for compassionate appointment. It is admitted fact that the widow had made request for considering second son for compassionate appointment though she maintains that she was forced to do this under the pressure from the second son, who had criminal record. In any way since she made a request and respondents have considered the proposal for compassionate appointment, <sup>and</sup> request has been rejected only on the ground that Shri Chhatra Pal Singh was not found fit for Government Service on account of adverse police report. This would imply that the request for compassionate appointment was not rejected on the ground that the applicant no.2 did not deserve compassionate appointment <sup>for the family</sup> considering financial position of the family but on the technical ground that he was not fit for Govt. service. From the averments of the respondents, it appear that ~~the~~ need for the

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compassionate appointment had been considered by the competent authority. In such a situation, it is felt that the case of the applicant no.2 could be considered for compassionate appointment after the proposal of Shri Chhatra Pal Singh had been rejected after keeping pending for two years in 1995 when <sup>by that time</sup> the applicant no.2 had become eligible. In the light of this background, it is considered just and fair that the respondents should be directed to consider the case of applicant no.2 for compassionate appointment as per the extant rules, in case he is possessing the desired educational qualification, as claimed by him. It is noted that the post vacated by the late husband of the applicant no.1 has been already filled up and the incumbent, who has taken over the charge, has not been made a party. In view of this, it is provided that the case for compassionate appointment of applicant no.2 may be considered for any other post at any other station in case the applicant no.2 is willing for the same.

7. The judgments cited by the learned counsel for the applicant, as detailed above, have been gone through. It is noted that in all the judgments, the issue involved was delay in giving compassionate appointments either due to imposing of ban or other procedural delays. The facts in the present case are entirely different <sup>above.</sup> as brought out, the request for compassionate appointment had been considered and the same had been rejected. The question involved in the present case is whether second request for compassionate appointment could be allowed. In view of this, <sup>the</sup> cited judgments are of no avail to the case of the applicant.

8. In the light of the above discussions, I allow the application with the direction that the respondents may consider the request of the widow i.e. applicant no.1 for compassionate appointment of applicant no.2 for any other post at any other station, as indicated above, as per the extant rules laid down by the <sup>Department</sup> Deptt. This compliance may be done within a period of three months from the date of receipt of the order and applicant no.2 shall be suitably replied within the same period. No order as to costs.



MEMBER

On

12/5/98

Case already decided

on 10/11/97. However

a misapph. No. 829/88

filed by Rests. fixed

for 1.4.98 is submitted

for orders.

by

31.3.98.

Registrar

1/4/98

S.B. is not available

today. List for order/

direction on 12/5/98.

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Registrar  
12/5/98.

No S.B. is available today

List for order/direction on 15/7/98.

Box

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15-7-98

Hon Mr S.L. Jain JM

None present for the applicant. Respondents  
by Mr Sachin Srivastava advocate.

MA 829/98 heard. The application has  
become infructuous for the reasons that the  
matter is stated by respondents counsel has been  
considered. Hence the application is liable to be  
dismissed and is dismissed accordingly.

J.M. -  
JM

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