

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 27TH DAY OF JULY, 2001

Original Application No. 261 of 1999

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,v.c.

Jitendra Kumar, S/o Late Shri Musafir  
Ramm, R/o Gram Tajpur, post Tajpur  
District Ghazipur.

... Applicant

(By Adv: Shri Anant Vijai)

Versus

1. Union of India through Ministry of Communication, Department of Posts New Delhi.
2. The Chief Post Master General, U.P. Sub division Lucknow.
3. Assistant Director (Recruitment) Department of Posts, U.P. Lucknow.
4. Superintendent of Post Offices Mirzapur Division, Mirzapur.
5. The Post Master Mirzapur

... Respondents

(By Adv: Shri Prashant Mathur)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application applicant has challenged the order dated 9.9.1998 by which claim of the applicant for appointment on compassionate ground has been rejected.

The facts giving rise to this application are that father of the applicant was employed as Post Man. He died on 1.1.1992. Immediately after death application was made for appointment of applicant on compassionate ground. The application was rejected. Then the applicant filed OA No. 889/96 in this Tribunal which was decided by order dated 10.7.1998 (Annexure 3). This Tribunal directed consideration of the claim of the applicant for appointment on compassionate ground within one month. In pursuance of the aforesaid order of this Tribunal claim of applicant has been

again considered and rejected by the impugned order. Thus this OA has been filed challenging order of rejection.

The sub Divisional Committee which considered the claim of applicant for appointment on compassionate ground and has assigned three reasons for rejecting the claim of applicant which are as under:

- i) That the employee before his death had already served 35 years in the department and he was due to retire after a year.
- ii) that all the <sup>3</sup> ~~sons~~ are major
- iii) That the amount of pension received by the widow and the agricultural land are sufficient to maintain the family.

The learned counsel for the applicant has challenged the correctness of the aforesaid grounds and has submitted that the applicant was entitled for appointment on compassionate ground if his father who was employed as Postman died during harness. The claim could not be rejected, merely on the ground of only one year was left for attaining the age of superannuation. It is further submitted that this Tribunal in order dated 10.7.1998 passed in OA 889/96 has taken into account all the amounts received by the family of the applicant even thereafter direction was given to consider the claim for appointment. Thus the claim of the applicant could not be rejected ignoring the findings and observations of the Tribunal.

The last submission of the applicant is that all the sons of the deceased employee are unemployed and the agricultural land is very small area wholly insufficient to maintain the family.

Shri Prashant Mathur learned counsel for the respondents on the other hand, submitted that the agricultural area possessed by the applicant's family is sufficient to meet the demand of the family. He has also submitted that the family pension received by the applicant's mother is also sufficient.

I have considered carefully the submissions of the learned

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counsel for the parties. This Tribunal in its order dated 10.7.1998 considered in detail all the aspects of the matter. It was noticed that amount of Rs72,350/- received by the applicant's family was utilised in the marriages of the daughters. The amount of family pension received by the applicant's mother has not been disclosed anywhere either in the order or in the counter affidavit filed by the respondents. The area of the agricultural land possessed is <sup>0.089</sup> hectares. About this small area it has been said in the RA that house<sup>s</sup> of the applicant and other <sup>in cohered</sup> persons exist and no income is earned. The para 11 of the affidavit reads as under:

"That the contents of para no.12 <sup>is</sup>"

of the CA is denied. It is stated  
the intkhab submitted by applicant to his,  
that the/entire family and entire family  
of applicant and his uncle  
residing in the aforesaid land having mud  
constructed rooms and the aforesaid land  
is being used for residential purposes,  
hence there is no land for agricultural  
purposes in the name of applicant and his family."

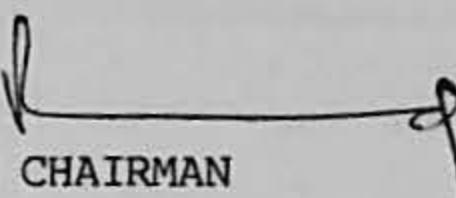
From a close perusal of the record of rights filed with the counter affidavit it appears that by order dated 28.1.1995 in place of deceased Nath<sup>u</sup> and Musafir names of Ramdev, kedar, Shyam Lal, Mangla and Ram Chandra sons of Nath<sup>u</sup> and Yogendra, Jitendra and Shailendra, ss/o Musafir have been recorded. Thus, 8 persons are <sup>in showu</sup> in the record. From perusal of the impugned order it appears that the Committee failed to peruse the record of rights as to what interest the applicant's family could have in the alleged agricultural land. This Tribunal recorded a positive finding on the basis of the counter affidavit filed earlier that the total number of members in the family were widow, three sons and one divorced daughter. The amount received was utilised in the marriage of daughter. In para 8 of the counter affidavit filed earlier it was clearly stated that the family needs compassionate appointment. All these facts have not been analysed and considered appropriately. In my opinion, it is a fit case where the matter should be sent again to the respondents for consideration of appointment of the applicant. The



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order impugned is not based on relevant considerations and cannot be sustained.

For the reasons stated above this OA is allowed. The order dated 9.9.1998 is quashed. The respondents are directed to reconsider the claim of the applicant for appointment on compassionate ground within three months from the date a copy of this order is filed. There will be no order as to costs.

  
VICE CHAIRMAN

Dated: 27.7.2001

Uv/