

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

TUESDAY, THIS THE 25TH DAY OF MARCH, 2003

ORIGINAL APPLICATION NUMBER:- 1100 OF 1999

HON. MRS. MEERA CHHIBBER, MEMBER (J)

Sunil Kumar Verma,
s/o Late Mahabali Prasad,
r/o 168/2, Azad Nagar
South Malaka,
Allahabad.

.....Applicant.

(By Advocate:- Shri A.C.Mishra)

Versus

1. Union of India, through Chief Post Master General, Lucknow.
2. Post Master General Allahabad Region, Allahabad-211 001.
3. The Senior Superintendent, Railway Mail Service 'A' Division, Allahabad-211 001.
4. Circle Relaxation Committee, Allahabad.

.... Respondents.

(By Advocate:-Shri P.Mathur)

O R D E R

By this O.A applicant has sought the following reliefs:-

- " (a) That the order rejecting the applicant's claim for compassionate appointment passed by circle Relaxation Committee and communicated to the applicant vide letter dated 22.1.1999 may kindly be quashed.
- (b) That the respondents be directed to consider and give appointment to the applicant on compassionate grounds in accordance with his qualification on any group 'C' post.
- (c) That to pass any other and further order as this Tribunal court may deem fit and proper in the circumstances of the case.
- (d) That the award the cost of the petition to the applicant."



2. It is submitted by the applicant that his father Late Mahabali Prasad was an ex-serviceman and was working as in Railway Mail Service at Allahabad. He died on 15-9-1997 while still in service, leaving behind his wife and three children namely his widow two sons and one daughter who ~~were~~ ^{were} living with Shri Mahabali Prasad in his official quarter and were fully dependent on him therefore, his mother gave an application on 8-10-1997 praying for grant of compassionate appointment in favour of applicant. However, the request was not considered in-spite of several reminders initially and they were made to vacate the Government quarter in 1997. ^{hereafter} that he was informed by letter dated 21-2-1999 that his case for grant of compassionate appointment has been rejected on the following grounds:-

1. Due to overage of the candidate.
2. No liability observed.
3. Sufficient monthly income.
4. Sufficient terminal benefits paid to the family.
5. Family not considered in indigent condition."

It is this order which has been challenged by the applicant in this O.A. It is submitted by the applicant that there is no material on record before the authorities for coming to the conclusion for rejecting the claim of applicant in as much as at the time when application was given applicant was very much within the age limit for Group-C post as his date of birth is 10-12-1970 and on 10-10-1997, when the application was given for compassionate appointment, ^{only} he was 26 years and 10 months old and it was only due to inaction on the part of the respondents that applicant became overage in the meantime. Therefore, his candidature can not be rejected on this ground. He has further submitted that his ailing mother was fully dependent on him and he could not have been denied compassionate appointment on the ground of terminal benefits as held by Hon'ble Supreme Court in the case of Balbir Kaur. Moreover, the applicant's mother was paid only an amount of Rs. 15082/- which is inclusive of Rs. 25,00 given ^{for cremation of} ~~in termination~~ of the applicant's father. It is thus submitted by the applicant that the reasons given by the respondents for

rejecting his claim are not at all sustainable in law as such the order is liable to be quashed and set aside and he is entitled to be given ~~to~~ the compassionate appointment.

3. Respondents, on the other hand, have opposed the O.A and have submitted that applicant's case has been duly considered by the authorities and it has been rejected on valid grounds in as much as the father of applicant was an ex-serviceman and apart from ~~the~~ receiving the terminal benefits, applicant's elder brother is also working and the only daughter is also married; the widow is getting sufficient pension amount. Therefore, it was considered that it is not one of those cases where the family is in total indigent condition and needs ^{hde B} to be provided compassionate appointment to ~~be~~ over the sudden crisis left behind by the sudden death of the employee. They have further submitted that the compassionate appointment can not be sought as a matter of right as it can be provided only ~~wanted~~ ^{can B be B as B} family in exceptional circumstances and ~~is~~ not used ~~to be~~ ^{backward} entry in each and every case. Since the condition of the family was not so indigent therefore, the competent authority was not inclined to relax the age of applicant. They have, thus, submitted that the O.A is absolutely devoid of merit, therefore, the same may be dismissed with costs.

4. I have heard both the counsel and perused the pleading as well.

5. Law on the point of compassionate appointment is well settled by now. As Hon'ble Supreme Court has repeatedly



held that compassionate appointment can not be sought as a matter of right nor as a line of succession. It is to be granted only in exceptional cases where the family is in such distressed condition that they can not survive without the immediate assistance to be given by the Department. This obviously depends on many factors namely the financial condition of the family, liability left by the deceased employee in the sense that there are unmarried daughter, number of minor children and any disabled child etc.. It is also to be seen what is the amount paid to the family after the death of employee and member whether there is any earner/in the family. It is also decided by now by the Hon'ble Supreme Court that courts cannot give any direction to the respondents to appoint any person ^{on} to compassionate grounds ^{and B} as the person only has a right of consideration and the courts only have to see whether the authorities ~~has~~ considered the case properly or not and whether the orders passed ~~are~~ arbitrary in nature.

6- In the instant case ~~in applicant~~ in the representation given by the applicant's mother on page 31 of the O.A, she has herself stated that after the death of her husband she got an amount approximately of Rs. 40,000 whereas in the rejoinder in para 18 the applicant has stated that the total amount received by the family of the applicant, ~~since the date of death of the father was Rs. 15082/- only.~~ However, today when the case was being argued ^{for} counsel applicant on instruction from his client stated that this amount of Rs. 15082/- paid ^{Rs. 15} ~~on account of~~ ^{for} ~~Accounts and~~ insurance ^{and B} and was not the total amount of ~~which~~ to the applicant's mother. Therefore, it is seen that the applicant's mother was given about Rs. 58,000 as per her own statement plus



the monthly pension @ 1850 per month, the only daughter was already married so there was no such liability left by the deceased employee, the elder son is admittedly employed and as per the judgment given by the Hon'ble Supreme Court in the case of SAIL & Anr. Versus Awadhesh singh & ~~as~~ reported in JT 2001 (4) SC 73 if ~~one~~ heir is already in employment, compassionate appointment can not be provided to others. The applicant's father died in the year 1997 when admittedly applicant was already 26 years 10 months old and simply because he was unemployed not it can/be ~~g~~ ground to ask the ~~the~~ ^{for} compassionat appointment, as a matter of right. If he ~~was~~ ^{is B} well educated, it is open to him to apply in accordance with rules and competeer with others for seeking employment. In my considered view there is no such major liability left by the deceased employee which could have ~~lead~~ ^{led} to the conclusion that the family ^{in our} was indigent condition. Therefore, I would like to agree with the decision taken by the respondents that since the family was not in indigent condition applicant would not be entitled ~~for~~ grant of compassionate appointment.

7.7 In view of the above discussion the O.A is rejected with no order as to costs.



Member (J)

Madhu/