

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 06<sup>th</sup> day of JANUARY 2006.

ORIGINAL APPLICATION No. 1129 of 2002.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Mohd. Shamin, S/o Late Abdul Waheed,  
R/o Village and Post Shahabpur,  
Post Saraimamrez,  
ALLAHABAD.

.....Applicant

By Adv: Sri A. Tripathi

V E R S U S

1. Union of India through its Secretary,  
Department of Post, Ministry of Communication,  
Dak Bhawan, Sansad Marg,  
NEW DELHI.
2. Chief Post Master General,  
UP Circle, Hazratganj,  
LUCKNOW.
3. Senior Superintendent of Post Offices,  
Allahabad Division,  
ALLAHABAD.
4. Sub Divisional Inspector of Post Offices,  
Handia Sub Division,  
HANDIA.

.....Respondents.

.....By Adv: Sri S. Singh

O R D E R

For Applicant: Sri A. Tripathi

For Respondents: Sri A. Dwivedi brief holder of Sri  
S. Singh.

The applicant whose father expired while in  
service had been accommodated as EDR [now GDS  
(Runner)] Sarai Mumrej and is continuing in the said  
post. He had applied for compassionate appointment

*fn*

as he has to maintain his widowed mother, two brothers with unsound mind and one brother who is unemployed. Of course, two of his brothers are at Mumbai and one abroad even during the life time of the applicant's father. The entire income of the family apart from a meager agricultural income is only Rs. 1950/- per month which is nothing but the salary of the applicant in the post of GDS (Runner).

2. The respondents have rejected the case of the applicant on account of the following reason:-

*"In pursuance of Chief PMG UP Circle Lucknow letter no. Root/M-8/169/99/2 dated 13.08.2002 it is inform you that your case was considered by CR.C and case could not be recommended by CRS for appointment on compassionate grounds to cure the family of the deceased official was not found in indigent circumstances on the following grounds:-*

- I. All five sons are grownup.
- II. Family has no liability to marriage of daughter and education of minor children.
- III. Two sons are living separately in Mumbai.
- IV. Monthly income of sponsored candidate is Rs. 1950/-"

3. The respondents have contested the OA and their contentions are as under: -

- ba*
- a. The applicant was never appointed provisionally and was permitted to work as substitute of his father till his case of appointment is decided by the Circle Relaxation Committee. The Circle Relaxation Committee after considering the case of the applicant rejected the same vide order dated 13.08.2002 which was communicated to the applicant vide order dated 26.08.2002. As regards the indigent circumstances of the family is concerned it is stated that all the sons of the deceased are grown up. There is no liability of family like marriage or education of minor children and

the monthly income of the applicant is Rs. 1950/- per month as per income certificate issued by the Tahsildar Handia. The department never considers the major children as the liability of the family. His two sons are in Mumbai and living separately.

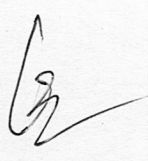
b. The family circumstances got verified not only once but thrice as has been admitted by the applicant and since the case of the applicant did not come under the preview of selection under relaxation of Recruitment Rules, it was rejected. The order is in accordance with the instructions on the subject.

c. The application was not complete and subsequently after it was completed, it was considered by the Committee and when not found fit it was rejected as per rules and instructions.

4. Arguments were heard and documents perused. In regard to rejection on the ground that all the sons are grown up, the said reasoning has to be out rightly rejected. For, for giving compassionate appointment the family member should be major. That other persons are also major cannot disentitle the applicant if otherwise eligible for compassionate appointment. As regard sons living in Mumbai and aboard since the same situation continued even from the life time of the applicant's father, the reliance placed upon by the applicant in the case of **R.V. Krishnappa Vs. Karnataka Electricity Board Bangalore, ATJ 1998 (2) 104** applies. Similarly the reliance placed by the applicant's counsel in the case of **Sukhdeo Vs. State of Himanchal Pradesh vide ATJ 1998 (3) Pg 386** applies in so far as the applicant's employment as GDS (Runner) is concerned. In fact if the applicant is given compassionate

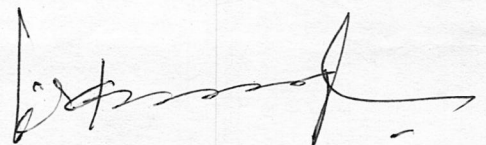
appointment even then there will be only one earning member in the family but with higher emoluments and grater security of employment.

5. What is to be seen in this case is whether the applicant is enshouldering the responsibility of bringing up his mother and other younger brothers two of whom are mentally incapacitated. If the respondents have verified the seem and found the facts mentioned in para 4.14 of the OA as correct, the circle Relaxation Committee should consider the case of the applicant treating that the family consists only of the widowed mother, the applicant, his two mentally challenged younger brothers and one unemployed younger brother and contrast the same with the financial resources of the applicant to arrive at whether the case of the applicant is deserving or not. Apparently this kind of an exercise has not been done. Taking into consideration the fact that some of the sons of the deceased employee are at Mumbai or else where and that all the sons are grown up and there is no liability like marriage of dependent daughters etc. the CRC had rejected the case. The CRC should therefore reconsider the case of the applicant only with reference to the family members residing with the deceased Govt. Servant during his life time and the financial condition after the demise of the Govt. Servant. The responsibility of maintaining



mentally challenged brothers should also be duly considered.

6. In view of the above the OA succeeds. The impugned order dated 26.08.2002 (Annexure A1) is quashed. The respondents are directed to consider the case of the applicant for compassionate appointment on the above lines and if found deserving as compared to others, necessary order of appointment be issued. This drill may be performed in the next CRC meeting and the applicant be informed about the decision. Perhaps it would be appropriate if the applicant's engagement as GDS Runner be regularized and he is confirmed in the said post itself and is continued in the same post as a compassionate appointee. Meanwhile there shall be no order for disengagement of the applicant from the post of GDS Runner Sarai Mumrej. In that event there may not be any necessity for locating the vacancy. No cost.



Member (J)

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