

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 919 of 2003

This the 12th day of November, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Jai Prakash Rai son of Late Yamuna Rai,  
R/o village Haraiya Naulahi, Post  
Brijmanganj. District - Mahrajganj.

---Applicant.

By Advocate : Shri D P Parmar

versus

- 1- Union of India through its Secretary  
Ministry of Communication, New Delhi.
- 2- Chief Post Master General U.P.Circle,  
Lucknow.
- 3- Senior Superintendent of Post Offices,  
Deoria, Division Deorio.

---Respondents.

By Advocate : Shri R.C.Joshi

O R D E R

By Hon. Mrs. Meera Chhibber, JM

By this O.A. applicant has sought a direction to the respondents to give appointment to the applicant on compassionate grounds under the dying in harness rules, according to his qualification and to issue anyother such order or direction which may <sup>be</sup> deemed fit and proper under the circumstances of the case.

2. It is submitted by the applicant's counsel that father of the applicant, late Yamuna Rai was working as Extra Departmental Mail Peon under group 'D' in Ram Kola, S.O. (Kushinagar) Deoria division who died on 01.06.2000 due to heart attack, while in service. On 15.10.2000 the mother of the applicant gave an application before respondent

no.3 for granting compassionate appointment to the applicant as he had passed Poorva Madhyama (Equivalent to High School) (Annexure-III). The respondents after considering the case of applicant, rejected the case as it could not find place in the list of approved candidates within the limited number of vacancies under 5% quota of direct recruitment. Looking at the circumstances of the family of ex-official, the family was also not found in indigent condition (Annexure-4). It is also submitted by the applicant that the deceased left behind him six members including two unmarried daughters and one unmarried son. No member of the family is employed and the mother of the applicant is getting family pension of Rs.1618/- per month. The mother was paid only 1,66,461/- from the department after the death of her husband. Applicant has also annexed the income certificate issued by Tehsildar which shows that family gets Rs.800/- per month from other sources, whereas deceased was getting Rs.7000/- per month. Applicant has, thus, submitted that the amount which they are getting now is too meagre <sup>and</sup> whereas they are not able to manage their affairs in the said limited amount. Learned counsel further submitted that the case of applicant should not have been rejected on the ground, the family is getting family pension and other terminal benefits as held by Hon'ble Supreme Court in case of Balbir Kaur. He has, thus, submitted that applicant is entitled for appointment on compassionate grounds.

3. I have heard counsel for the applicant and perused the pleadings as well.

4. The application given by the applicant's mother shows that they have agricultural land, as specific request was made to post her son in Mahrajganj district so <sup>that</sup> he may be able to continue with the cultivation of land and lookafter family members. It was also submitted that they are

living in their own house and they have 1.51 decimal land which is being cultivated by them. Therefore, it is clear that the family is not in a total ~~is~~ indigent condition. The contention raised by the applicant's counsel that application could not have been rejected on the ground of family pension and terminal benefits, is not applicable. In the present case his case has not been rejected merely on this ground but on the ground that the family cannot be said to be in indigent condition as they have own house and are getting Rs. 9600/- yearly income apart from family pension etc. For assessing the candidature for grant of appointment on compassionate ground, the respondents have to see whether the family of the deceased employee is in indigent condition or they <sup>can</sup> survive on their own without getting assistance from the department. After all compassionate appointment cannot be sought as a matter of right by the dependant of deceased employee. It is also settled by Hon'ble Supreme Court that compassionate appointment can be given only if the case comes within 5% limit of direct recruitment. In the instant case, respondents have categorically stated that applicant's case did not come within the limit of 5% vacancies meant for compassionate appointment. In the category of direct recruitment, it is settled that since the vacancies are limited for compassionate appointment, compassionate appointment has to be given only to those candidates who are in worst condition and come within the 5% limit of direct recruitment. Since there are candidates who are said to be in worst condition than the applicant, definitely respondents have to give preference to those candidates and since applicant's case has been rejected on the ground that he does not come within the 5% limit. I do not find any illegality in the order passed by the respondents.



5. The O.A. is accordingly dismissed at the admission stage itself.
6. There will be no order as to costs.



Member J

Brijesh/-