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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1122 OF 2006

WEDNESDAY, THIS THE 14TH DAY OF MARCH, 2007

HON'BLE MR. P. K. CHATTERJI, MEMBER-A

Nilesh Kumar Khare,
Son of Late Sri Ram Swaroop Khare,
Resident of 447, New Pathakpura, Orai,
District Jalaun.

. Applicant

By Advocate : Shri P. Chandra

Versus

1. Union of India,
through Secretary, Ministry of Communication,
Department of Post Dak Bhawan,
Snasad Marg, New Delhi.
2. The Chief Post Master General,
U.P. Circle at Lucknow.
3. Senior Superintendent of Post Office,
Jhansi Division, Jhansi.

. Respondents

By Advocate : Sri Saurabh Srivastava.

ORDER

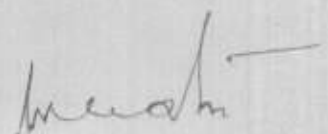
The OA has been filed by one of the three sons of Ram Swaroop Khera who was working as a Postman under respondent no.3. He died while in service on 28.02.2003. A representation was filed on 29.03.2003 by mother of the applicant for providing the job on compassionate ground to her second son. After obtaining relevant information and records of the case the respondents considered the representation by the appropriate committee. The decision of the committee was conveyed to the applicant by respondent no.3 vide

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order dated 13.04.2005. Thereafter the applicant submitted ^{request} ~~it~~ before the Ministry of Communication for reconsideration of his representation, which also however, was rejected vide communication dated 14.09.2005 (Annexure-4). It is the order of the Senior Superintendent of Post Offices dated 13.04.2005, which has been impugned in this OA. The applicant is aggrieved that the respondents while deciding his case did not take into account the relevant factors particularly the pecuniary circumstances, They did not take into ^{account} the fact that out of the total ~~retiral~~ benefit a large part was taken by the elder brother. The other two sons were completely depending upon the mother having no other source of livelihood. The applicant is aggrieved that even this distressful situation was not considered by the respondents to be indigent enough.

2. Learned counsel for the applicant has also referred to the judgment of the Hon'ble High Court of Allahbad, which in his view, is a similar case and should decide this OA as well. The decision of the Hon'ble High Court was passed in the writ petition No.17423/03 in which it has been stated by the Hon'ble High Court that the family pension and other benefits should not be taken into account while deciding the claim for compassionate appointment. The decision of the Tribunal passed in this regard was also quashed for the reasons that there were no findings that the



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family pension received by the widow was sufficient to cater to the need of the applicant.

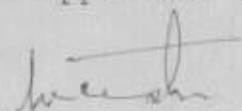
3. In referring to this case the applicant's counsel is of the view that the benefit of this judgment should be extended to the applicant as the representation was rejected on the ground of their having terminal benefits of Rs.1, 08,825/- plus Family Pension of Rs.1275/- Plus DA.

4. The respondents have countered the contentions made by the applicant in their submissions and pleadings. They have made the following points: -

- a) The applicant's father died after rendering only six and half years of service as a departmental employee.
- b) All the three sons ~~were~~ attained the age of majority at the time of death of the applicant's father.
- c) The applicant's representation was considered by the appropriate committee, which ^m authorized for evaluating the applications for compassionate appointment.
- d) The case of the applicant was rejected, as after evaluating the relative merit of the different applicants the circumstances of the applicant's family was not found to be indigent enough as compared to the other applicants.

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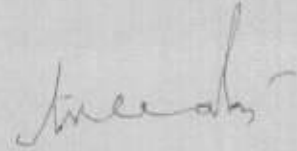
- e) It is not that the retiral benefits have been made a ground for rejection. However, as per the settled position it is necessary that the approval for compassionate job be given after correct assessment of the pecuniary circumstances of the family of the applicant.
- f) The number of applicants were much more than the number of posts available for compassionate appointment. So assessment of relative merit of many application on the basis of the property in possession of the family become inescapable.
- g) The learned counsel for the respondents has also stated that there are Supreme Court judgment to the effect that the need for immediate relief is of utmost important in a case for compassionate appointment and the need for immediate relief does not subsist indefinitely if the family has been able to survive even in a distressful situation long enough it shows that the need for such immediate relief does no longer exists. It is for this reason the Hon'ble Supreme Court has decided in a number of cases that fresh cases should be given priority over older cases.
- h) The right of the applicant is only the right to be considered in a proper way and as per rules and in the case of this applicant his



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representation was considered by the appropriate authority and as per rules and strictly on merit.

5. On balance it would be seen that no right of the applicant has been violated the ratio of the judgment of the Hon'ble High Court referred to by the applicant would not apply in this case as the retrial benefits has not been made the sole ground for rejection. The respondents have given justifiable ground for not being ^{able to} approve the case in the face of the situation that prevails. It is, therefore, not possible to allow this OA which is, therefore, dismissed. No Costs.



Member-A

/ns/