

ORDER DATED 1-X-2001.

Heard Shri P.K.Padhi, learned counsel for the applicant and Shri J.K.Nayak, learned ASC for the Respondents and have also perused the records.

In this O.A., the applicant has prayed for a direction to the Respondents to appoint the applicant as Postal Assistant by way of compassionate appointment.

Respondents have filed counter opposing the prayer of the applicant and applicant has also filed rejoinder. On our direction learned ASC has filed a verified memo giving certain information. We have perused the pleadings of the parties including the verified memo.

For the purpose of considering this petition it is not necessary to go into too many facts of this case.

The admitted position is that the applicant's father was working in HSG II, SPM and expired on 20.6.1990 while he was serving the Department. The case of applicant for compassionate appointment was approved by the Circle Relaxation Committee in their meeting/proceeding which was circulated on 23.11.1994 at Annexure-3. Applicant was approved for compassionate appointment in the postman cadre.

Accordingly he got training and joined the post of postman on 13.1.1995. Applicant's grievance is that in the same order at Annexure-3 private Respondents 5, 6 and 7 were also approved for compassionate appointment for the post of postman but later on they were appointed in the postal Assistant cadre whereas the applicant was appointed as postman. Applicant has stated that he has got more marks in HSC examination than the private Respondents and this is

also borne out by the verified memo submitted by the Respondents. In the context of the above, the applicant has come up with the prayers referred to earlier.

Respondents have opposed the prayer of applicant solely on the ground that the applicant after getting offer of appointment as a postman joined the post of postman on 13.1.1995 and once ~~she~~ has accepted the job of postman by way of compassionate appointment,

~~she~~ can not claim to be appointed to any higher post. Respondents have stated that amongst the private Respondents, Res.

No. 6 underwent the training of postman but she did not join.

As private Respondents did not join and represented for the post of postman assistant, their cases were considered and they were appointed by way of compassionate appointment to the post of postal Assistant cadre. But as the applicant had accepted the job of postman, his case was not considered inspite of his representation. A similar matter came up before the Tribunal in OA No. 483/95 and the Tribunal in their order dated 19.8.2001 had allowed the application taking note of the decision of the Hon'ble SC in the case of

Smt. Kamala Gajind vrs. State of Punjab and others reported

in 1992(5) SLR 864. The fact that the applicant joined the post of postman while the private respondents 5, 6 and 7 represented for getting compassionate appointment to higher post merely shows that the need of the applicant for a job

~~was~~ ^{was} ~~tenus~~ much greater than that of the private respondents

^{^ Vom} who instead of accepting the post for which they were approved for appointment, requested for a still higher post.

We hold that the case of applicant is squarely covered by our earlier decision in the OA No. 483/1995 specially in the

light of the law laid down by the Hon'ble Supreme Court in the above case.

In the result, therefore, we allow the OA and direct the Respondents to offer the job of postal Assistant to the applicant within a period of 90 days from the date of receipt of a copy of this order.

In the result, with the observations and directions made above, the OA is allowed. No costs.

L. —
(G. NARASIMHAM)
MEMBER (JUDICIAL)

S. —
(SOMNATH S. S.)
SOMNATH S.
VICE-CHIEF JUSTICE
1/10/2001

KNM/CM.