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O.A.NO. 509/1999

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Order dated 22-01-2003.

On being medically invalidated, Applicant No.1 (Dasarathi Sahu) had faced premature retirement from the post of Extra Departmental Branch Post Master/Gramin Dak Sevak Branch Post Master of Banamali Branch post Office on 15-05-1997 F/N. Since, he was the only bread winner of the family consisting of eight members, in order to tide over the financial crisis, he made several requests to provide an employment assistance in favour of his son i.e. Applicant No.2 (who is a matriculate and gained some experience having served the Department) on compassionate ground. No heed having been paid to such requests, Applicants have approached this Tribunal in the present Original Application (under section 19 of the Administrative Tribunals Act, 1985) for a direction to the Respondents to provide compassionate appointment in favour of Applicant No.2.

2. The sum and substance of the counter filed by the Respondents are that as there are no rule or departmental instructions to provide appointment (on compassionate ground) to a dependant or ward of an ED Agent (who retires on being medically decategorised), no action was taken on the prayer of the Applicants.

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contd..order dated 22-01-2003.

3. Heard Mr.P.K.Padhi, Learned Counsel appearing for the Applicant, Mr.S.Behera, learned Additional Standing Counsel for the Union of India, appearing for the Respondents and perused the pleadings of the parties and various circulars issued by the Director General of Posts, New Delhi, on the subject. During the hearing, Learned Counsel for the Applicant drew my attention to a similar matter rendered by this Tribunal in OA No.17/2001 disposed of on 21.8.2002 (Raghunath Singh vrs. Union of India and others); wherein, this Tribunal had the occasion to examine the instructions issued by the D.G P & T in letter No.48/212/79/Pen dated 4th August, 1980 as also the clarification, subsequently issued on 10.12.1986. Relevant portion of the DG P&T letter dated 04.03.1980 reads as follows:-

"The question of providing some ED posts to dependants of ED Agents in case of death/ infirmity of an ED Agent has been under consideration of the Government for quite some time past. It has, now been decided that a suitable job in the EDCadre may be offered to one dependant of an ED official who dies while in service leaving the family in indigent circumstances, subject to the conditions applicable to regular employees who die while service or retire on invalid pension. Such employment to the dependant should, however, be given only in very hard and exceptional cases".

(emphasis supplied).

Relevant portion of the clarification dated 10.12.1986 reads as follows:-

"no dependant of an ED Agent, who faced retirement prematurely on medical grounds, can be considered for compassionate appointment".

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Contd...Order dated 22-01-2003.

4. While examining the aforesaid provisions, this Tribunal analysed the matter with the following words:-

3. The aforesaid Govt. decision dated 4th August, 1980 and the clarification given thereon on 10.12.1986 go to show that while the dependants of both deceased and disabled regular employees of Postal Department are entitled to compassionate appointments, such benefits have only been extended to the Dependents of deceased employees of Extra Departmental Organisation of the said Department; which means, had the Applicant in the present case, died in harness, then only there was/is no bar to provided a compassionate appointment to his son and that simple because the Applicant has survived, although crippled/totally invalid, his son is not to be given a compassionate appointment in order to remove the distress condition of the family. Such a provision being discriminatory, the very intention of providing compassionate employment (which is meant to remove the distress condition of the family of a deceased/disabled employees; over and above the provision for grant of pension family pension) are being frustrated. Non provision of compassionate employment to dependants of invalid personnel of Extra Departmental Organisation of Postal Department; especially when there are no provision of granting monthly pensions/family pension to retired ED Agents/their families; is not only discriminatory but a very harsh and inhuman one.

5. However, after examining/considering all aspects of the matter in the said case of Raghunath Singh (supra), this Tribunal held as under:-

.... with the directions to the Respondents to give equal treatment to the family members/dependants of disabled ED Agents (who are/were given premature retirement) with the similarly placed family members/dependants of deceased ED Agents (for they both do not get monthly pensions/family pensions) and deceased/disabled regular employees of Postal Department and, in the said premises, to provide compassionate employment to the son of the Applicant, within a period of six months hence; upon verification of distress conditions of the family.

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contd... Order dated 22-01-2003.

6. In the above view of the matter, there is no reason to take a different view than the view already taken by this Tribunal in the case of Raghunath Singh (supra). In the instant case the Respondents having urged the sole point that there is no such provision to provide compassionate appointment, as in the given case; and this Tribunal having already decided the same points in the above referred case, the Respondents are hereby directed to consider the case for providing an employment in favour of Applicant No. 2, on compassionate ground; especially by taking into consideration the bulky size of the family of Applicant No. 1 and upon verification of the distress conditions. The whole exercises should be completed within a period of 90 (ninety) days from the date of receipt of a copy of this order.

7. In the result, therefore, this Original Application is allowed leaving the parties to bear their own costs.

AIR

Manoranjan Mohanty
(MANORANJAN MOHANTY) 22/01/2003
MEMBER (JUDICIAL)

KNM/CM.