

NOTES OF THE REGISTRY

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ORDER DATED 21-1-2002.

Heard Shri B. B. Mishra, learned Counsel on behalf of Shri D. P. Dhal, learned counsel for the applicant and Shri A. K. Bose, Learned Senior Standing Counsel (Central) appearing for the Respondents and have also perused the pleadings of the parties.

2. In this Original Application, the applicant who is the first son of late Achinta Kumar Barik, has prayed for a direction to the Respondents to give him compassionate appointment to the post of EDMC, Gudpoi BO in account with Chandipur Sub Post Office. Applicant's case is that his father late Achinta Kumar Barik was working as EDMC, Gudpoi BO and he passed away on 29.10.2000 leaving behind Manibala Barik, his widow and mother of the present applicant and two sons Arun Kumar Barik **the** present applicant, and Tarun Kumar Barik. The mother of the applicant filed a representation on 29.11.2000 seeking compassionate appointment in favour of his eldest son, the present applicant. Papers for compassionate appointment were also collected but without forwarding the case of the present applicant to the CRC his case was rejected. In the context of the above facts, the applicant has come up in this petition with the prayer referred to earlier.

3. Respondents have filed their counter and the applicant has filed rejoinder.

4. For the purpose of considering the petition, it is not necessary to refer to the

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averments made by the Respondents in the counter, and the applicant in his rejoinder, as these will be taken note of while considering the submissions made by learned counsel for both sides.

5. In the counter, the Respondents have admitted that the applicant's father late Achinta Kumar Barik passed away in harness on 29.10.2000. The papers were collected for compassionate appointment on the same day. In the petition filed by the applicant's mother, it was mentioned that two sons including the present applicant have read upto class $\frac{V}{5}$ and $\frac{III}{3}$ respectively. Accordingly, selection process for filling up of the post was taken ~~up~~ in hand. It is stated that immediately after the death of Late Achinta Kumar Barik, the present applicant was appointed on provisional basis for carry on the work of EDMC as carrying on the mail had to be urgently done. But as the applicant or his mother do not have the minimum educational qualification for the post of EDMC, which is class VIII pass, they could not be appointed. Hon'ble SC in a series of decisions have held that compassionate appointment can be given only in terms of the scheme which is in force of the Department. In respect of ED Agents, gist of the scheme has been printed in ~~Sec.~~ 10 of Swamy's Compilation of ED Service Rules for ED Agents (1999 edition). According to the instructions dated 2.2.94, gist of which has been printed at page 146 and 147 of the above book, in case of compassionate appointment of spouse or ward of deceased ED employee, not having the minimum educational qualification no relaxation of educational qualification is permissible, in case

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of wards of deceased employee i.e. son or the daughter. Instructions provide that such relaxation can be done only in respect of spouse i.e. widow or widower but the spouse should atleast be literate and the Departmental Authorities should checkup if she has the capacity to do the work even though she does not have the minimum educational qualification. In this case, the vacancy has been caused in the post of EDMC. The responsibility of the post is to carry mail from one station to another and EDMC is not required to attend to any file work. In view of this the applicant's mother and widow of the deceased ED employee can be considered by the Departmental Authorities for compassionate appointment. In page-3 of the counter, the Respondents have made the following averments:

"Only after consideration of the case of compassionate appointment as requested by the applicant's mother, regular selection will be resorted to, if need arises".

From the above it appears that the Departmental Authorities are prepared to consider compassionate appointment of one member of the family. As the two sons are not eligible for appointment under compassionate appointment scheme, not having the minimum educational qualification, the case of the widow should be considered. Respondents have mentioned that necessary documents have not been submitted by the widow for getting compassionate appointment in her favour. It is submitted by Shri Mishra, learned counsel for the applicant that the mother of the applicant will submit all necessary documents within a period of 20 days from the date of receipt of a copy of this order. Respondents are directed to consider the case of the compassionate appointment

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of the widow of the deceased employee, after she files the application in the next meeting of the CRC keeping in view the circular regarding educational qualification of the Department. Respondents should also checkup if the applicant is literate and with her level of literacy she can carry on the work of EDMC as noted above as the responsibility of the post is to carry mail from one station to another and EDMC is not required to do any file work ~~and~~ this aspect should be kept in view by the CRC while considering the case for giving compassionate appointment to the widow of the deceased ED employee /mother of the present applicant.

6. The regular process of selection to the post of EDMC, Gudpoi BO should be taken up only after the case of the applicant's mother for compassionate appointment is finally decided.

7. With the above observations and directions, the OA is disposed of. No costs.

Four copies of
final order
H.21.1.02 issued
to counsel for
both sides.

22/1/02

SNM (S)

S. N. M. (S)
(SOMNATH SOM)
VICE CHAIRMAN
22/1/02

KNM/CM.