

OA No.194 of 2009
P.K.KalidashApplicant
Versus
Union of India & Others Respondents

2. ORDER DATED: 30th March, 2010

CORAM
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)

It is the case of the Applicant that though compassionate appointment is out of compassion provided after the death of an employee, there could not have been any discrimination or injustice in the matter of providing appointment on compassionate ground as has been done in his case. Grievance of the Applicant is that his father working as Postman in the Postal Department died prematurely on 06.12.2001 at the age of 47 years. In order to mitigate the financial hardship caused to the rest of the family members consisting of the widow, one married daughter, one minor daughter and two minor sons (present applicant is one of them), the widow (mother of the Applicant) applied for providing appointment on compassionate ground in favour of the applicant after the Applicant became major. But according to the Applicant, without giving opportunity to the applicant to substantiate his indigence condition by producing the income certificate, the Respondents rejected the claim of the applicant and communicated the same in letters under Annexures-6 &7 dated 14.2.2007 and 26.12.2008 respectively. These orders have been assailed by the Applicant in this Original Application filed under section 19 of the A.T. Act, 1985 with request to quash the same and direct the Respondents to provide the applicant appointment on compassionate ground.

2. Respondents' contention in support of the orders of rejection is that on receipt of the request of the applicant and after necessary verification, the Sub Divisional Inspector (Postal), Gunpur Sub Division forwarded the

synopsis with documents to the Respondent No.4 who in turn forwarded the synopsis and documents along with check list duly recommending the case of the applicant for Gr. D post. The matter was placed before the CRC meeting held on 14.11.2006. As there was no vacancy in Group D cadre, the case of the applicant was considered for Postman though it was recommended for Group D post. The CRC did not recommend the case of the applicant considering his indigence in comparison to the selected candidates. The Applicant is a matriculate and thus, is not eligible to be appointed against the vacancies of PA/SA for which the minimum qualification is 10+2. Besides, as the applicant has applied for the post of postman/Group D or any GDS post, question of considering his case in PA/SA cadre does not arise. Accordingly, Respondents opposed the contentions raised by the Applicant in this OA and prayed for dismissal of this OA.

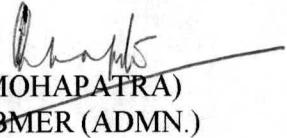
3. Heard Learned Counsel for both sides and perused the materials placed on record in support of the various contentions raised in their respective pleadings. Law is well settled that this Tribunal not being the appellate authority over the decision of the appropriate authority of the Department cannot sit over the said decision taken by the competent authority in this regard. It is seen that the Respondents, taking into consideration various aspects of the matter came to the conclusion that the indigent condition of the applicant is not severe enough as compared to the persons recommended for appointment by the CRC.

4. Although appointment on compassionate ground is a benevolent legislation, yet it is trite law that Administrative Tribunals cannot confer benediction impelled by sympathetic considerations in complete disregard to the facts as in the instant case. The appointment on compassionate ground is not another source of recruitment but merely an exception to the

requirements taking into consideration the fact of the death of employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over the sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased. Employment to the dependant of a government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his unexpected death while in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided one must come in clean hand and situation does really exist for providing employment on compassionate ground. It cannot be provided as a matter of routine or cannot be claimed as a matter of right. At the same time I may state that as the appointment on compassionate ground has direct nexus with the right to life enshrined under Article 21 of the Constitution of India and to mitigate the hardship caused due to sudden demise of the bread earner of the family, there should not be much delay in giving consideration to such request of a family member of the deceased as it would tantamount to denial of economic and social justice as enshrined in the Constitution. In the instant case, the screening committee after assessing/evaluating the financial conditions/indigence/liability/viability of each of the candidates recommended more deserving case in comparison to the Applicant which cannot be faulted in any manner. But according to the Respondents, Applicant is not eligible for the post of PA or SA and applicant has also applied for the post of Group D/GDS. Respondents rejected the claim of applicant on the ground of no vacancy in the Group D under compassionate appointment quota. But nothing has been stated in regard to the appointment in the post of GDS. It has been

stated by the Learned Counsel for the Applicant that there are instructions and instances that appointment on compassionate ground has been/can be made against the GDS post also. Besides, the above the DOP&T instruction dated 05-05-2003 clearly provides for giving three times consideration to the case seeking appointment on compassionate ground whereas admittedly only once consideration has been given to the case of the Applicant.

5. In the light of the discussions made above, while maintaining the order under Annexure-A/6 & A/7, I direct the Respondents to consider the case of the applicant two times more in terms of DOP&T dated 05-05-2003 against the post of Postman/Group D. If there is no vacancy in the post of Postman/Group D, his case should also receive due consideration against the vacancy of GDS and communicate the result there of to the Applicant. With the aforesaid observations and directions, this OA stands disposed of. No costs.


(C.R.MOHAPATRA)
MEMBER (ADMN.)