

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 1245 OF 1996

Present : Hon'ble Mr. Justice S.N.Mallick, Vice-Chairman

Hon'ble Mr. S. Dasgupta, Member (A)

UTTAM KUMAR CHAKRABORTY

VS.

1. Union of India through the Chief
Post Master General, West Bengal Circle,
Yogayog Bhawan, Calcutta-700 012
2. The A.D.P.S. (Recruitment)
O/o of Post Master General,
West Bengal Circle,
Yogayog Bhawan, Calcutta-700 012
3. Superintendent of Post Offices,
Murshidabad Division,
P.O. Berhampore, Dist. Murshidabad.
4. Sub-Divisional Inspector (Postal)
Kandi Sub-Division, P.O. Kandi,
Dist. Murshidabad.

..... Respondents.

For the applicant : Mr. C.R.Chakraborty, Counsel
Mr. T.K.Biswas, Counsel

For the respondents : Mr. S.P.Kar, Counsel

Heard on : 10.3.98 : Order on : 24.3.98

O R D E R

S.Dasgupta.A.M.:

Through this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 1.7.96 by which the applicant's request for appointment on compassionate ground was turned down. He has sought a direction to the respondents to extend to him the benefit of employment on compassionate ground.

2. Through a supplementary affidavit, he has sought an additional relief of a direction to the respondents to absorb him in regular vacancy on the basis of his long period of casual service as ED Agent.

3. The facts which are not in dispute in this case are that the applicant's father was working as an

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Extra-Departmental Branch Post Master (EDBPM for short) in Gogedda Branch Post Office. The applicant, who is the second son of his father, ^{has been} working as substitute in casual vacancy created due to absence of his father ~~due to~~ leave or illness etc. The applicant's father died in harness on 21.11.94. Thereafter the applicant submitted a representation for his appointment on the post of EDBPM, Gogedda BPO on compassionate ground. This representation was turned down by the impugned order dt. 1.7.96 on the ground that the elder son of the deceased employee was already in employment.

4. The applicant has challenged the aforesaid rejection of his request on the ground that his elder brother is not in employment of the Deptt. of Post and in any case he has been living separately for a long time and has not been rendering any financial assistance to the family of the deceased. He has also taken a plea that the respondents should have taken into consideration the previous service of nearly 600 days rendered by the applicant as substitute EDBPM and should have appointed him on the post which fell vacant due to the demise of his father.

5. The respondents in their reply have stated that the Circle Selection Board in Calcutta is the sole authority to consider the requests for employment of eligible dependents of the family of the deceased employees on compassionate ground. In respect of the applicant, all necessary papers were collected by the SDI(P) and submitted to the office of the Superintendent of Post Offices, Murshidabad for onward transmission to the Circle Office. The Circle Office on receipt of the necessary documents asked for a consent letter to be obtained from the elder brother of the applicant regarding employment of the applicant in place of the deceased employee. However, the elder brother of the applicant refused to give any such consent letter. Thereafter, on consideration

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of the documents furnished with regard to the applicant, his request was turned down by the circle office with the remark that the applicant's case has been carefully considered but rejected as one son was already employed.

6. The applicant has prayed in this application twofold reliefs. He has prayed for appointment on compassionate ground and has also prayed that he be absorbed on the post of EDBPM in view of the past casual service rendered by him.

7. So far as the second relief is concerned, the same is clearly not tenable in view of the provisions contained in Section III of the ED Agents (Conduct & Service) Rules, 1964. In the first place, the rules do not provide for any automatic absorption of substitute EDBPM. All appointments to the ED posts must be in accordance with the rules contained in Sec. III, that is by obtaining names from employment exchange and thereafter carrying out the process of selection. Secondly, even otherwise, the applicant is not eligible for appointment to the post of EDBPM since by his own admission he has not passed the Madhyamik Examination although he had read upto Class X. The rules for recruitment to the post of EDBPM clearly specify that the candidate for the post must be a Matriculate or equivalent. Since the applicant is not eligible for appointment to the post of EDBPM, the question of his absorption on the basis of his past casual service does not arise.

8. We shall now consider the question as to whether the request of the applicant for compassionate appointment has been validly rejected. In a catena of recent decisions, the Hon'ble Supreme Court has laid down that the appointment on compassionate ground is an extraordinary provision and should be resorted to with circumspection only in order to provide succour to the family left in penurious condition by the demise of the sole bread-earner. The death of a government

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employee by itself does not confer any right on a dependent of the family to be appointed on compassionate ground. In the case of Haryana State Electricity Board -vs- Hakim Singh, 1997(2) (SC) ATJ 665, the Hon'ble Supreme Court has stated in no uncertain term that the object of compassionate appointment is only to enable the surviving members of the family to tide over the financial crisis. This is not a vested right which can be claimed at any time. Any request for compassionate appointment will be examined keeping in view the financial condition of the surviving members of the family. In the case before us, it appears that the deceased employee left behind two sons, one of whom was already employed. Thus the only other dependent is the applicant himself. There is nothing on record to indicate that the financial condition of the applicant is such that he would require immediate assistance in the form of compassionate appointment. We have, however, noted that the respondents have rejected the representation of the applicant merely on the ground that the elder son was already employed. They have themselves admitted that the elder son, though employed, had been living separately since long. The records do not indicate that the respondents carried out any enquiry with regard to the financial condition of the applicant, who appears to be the sole surviving member of the family of the deceased employee. Had they done so and thereafter rejected the representation of the applicant on the ground that the financial condition of the applicant did not warrant resorting to the extraordinary provision of compassionate appointment, there would be no reason for us to interfere. We are, however, not satisfied that any such enquiry has actually been conducted as no such averment is there in the reply furnished by the respondents. While the applicant is certainly not eligible for appointment on the post of EDBPM, as he is not a Matriculate, he could be considered

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for any other suitable appointment appropriate to his educational qualification, in case the respondent authorities would have found that the applicant was in acute financial distress due to demise of his father on whom he was dependent.

9. In view of the foregoing, we direct the respondents to cause an enquiry into the financial condition of the applicant and if they find that he is in financial distress, the respondents shall consider appointing the applicant on any suitable post appropriate to his educational qualification. In case, however, on such enquiry it is found that the applicant does not require any assistance in the form of compassionate appointment, the applicant shall be suitably informed. Let this direction be complied with within three months from the date of communication of this order.

10. The application stands disposed of with the aforesaid direction leaving the parties to bear their own costs.



(S. DASGUPTA)

MEMBER (A)



(S. N. MALLICK)

VICE CHAIRMAN