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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

OA No. 214 of 1996.

Present : Hon'ble Mr. Justice A.K.Chatterjee, Vice-Chairman.

Hon'ble Mr. M. S. Mukherjee, Member (A)

SMT. UMA ROY

VS.

1. Union of India, through the Secretary, Ministry of Communications, Deptt. of Posts, Dak Bhavan, New Delhi.

2. Chief Postmaster General, West Bengal Circle, Yogayog Bhavan, Calcutta - 12.

3. Superintendent of Post Offices, Murshidabad Division, Berhampore, West Bengal.

... Respondents.

For applicant : Mr. N. Chattacharjee, Counsel.

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

Heard on : 8.5.97 :: Ordered on : 4.6.97.

O R D E R

A.K.Chatterjee, V.C.

The petitioner is aggrieved by the nonconsideration by the respondents of a prayer for appointment of her second son Shri Subrata Kumar Roy on compassionate ground on the death of her husband late Santosh Kumar Roy in harness on 23rd February, 1991 when he was employed as an Assistant Postmaster of Raghunathganj Head Office in Murshidabad district under the respondents. Her contention is ^{that} on the death of her husband, who was the sole earning member of ^{the} ~~her~~ family, it fell in distress and the petitioner finds it extremely difficult to maintain the family consisting of herself, three sons one of whom is mentally handicapped, a daughter in law and a grand son. She made a representation to the authorities concerned

for employment assistance which, however, was turned down as according to the authorities the family was not considered to be indigent. In such circumstances, the instant application has been filed for a direction upon the respondents to re-consider the matter sympathetically and to provide her second son with a suitable appointment.

2. The respondents in their counter have stated that besides a sum of Rs.1,45,000/- received as terminal benefit by the petitioner, she is also in receipt of monthly family pension of Rs.900/-. It was also stated that one of the sons of the petitioner is employed and the family has no heavy liability.

3. We have heard the learned counsel for both the parties and perused the record before us.

4. Employment assistance is a departure from the normal rule for recruitment and enables the employee to steal a march over many candidates waiting in the que including equally indigent, more qualified and suitable persons, ^{and} can be allowed only to retrieve a family in distress immediately on the death of its bread winner. In the case on hand, it is found that the petitioner's husband had died more than six years ago and ~~the application~~. ^{short} She is significantly silent upto the date when for the first time the petitioner applied for an appointment of her son on compassionate ground. It is also on the record that the petitioner's husband had died only about two months before he was due to retire on attaining the age of superannuation. A person in service is expected to make provision for his family as far as possible before his retirement falls due and, therefore, a case for compassionate appointment gets weaker when the death of the employee is nearer to the date of retirement. On both these considerations the case of the petitioner stands on a slippery ground.

5. Regarding the condition of the family, the petitioner has stated that out of Rs.1,45,000/- received as terminal

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benefit a sum of Rs.40,000/- was spent to discharge the debt incurred for the marriage of her daughter soon before her husband's death and the family pension of Rs.900/- per month is ~~only~~ spent in payment of house rent of Rs.400/- and to defray the expenses of treatment of her mentally handicapped son. Every family has its peculiar needs and commitments and it has to make every endeavour to cut its coat according to its cloth. The family of the petitioner may be ~~of~~ no exception. ~~It is~~ and ~~does~~ not suggest ~~that~~ ^{the} ~~petitioner is well off~~ is indigent or affluent, but employment assistance can be given only on well defined consideration and cannot be claimed merely because a part of the terminal benefit had to be spent to repay some loan or a part of the pension has to ^{be} set apart for payment of house rent or for cost of treatment. These are matters for the petitioner to manage and the State cannot be asked to shoulder such responsibility.

6. The petitioner's first son is working in Air Force and living in Bangalore in connection with his service. The petitioner has stated that he does not provide any financial assistance to the family. ^A Son is under ^a statutory obligation to maintain his parents, who are unable to maintain themselves ~~if he~~. ^A fails in solemn duty, the parents are not without remedy and may enforce their right in a summary proceeding under Section 125 of the Code of Criminal Procedure. As the law itself provides such remedy, ~~an~~ indigent mother ~~she~~ should have exhausted it before seeking a direction upon the respondents for employment assistance.

7. Considering the case of the petitioner in all its bearing, we are not satisfied that relief as prayed for by the petitioner should be granted.

8. The petition is, therefore, dismissed. No order is, however, made as to costs.

Ansley
4/6/97
(M. S. Mukherjee)

MEMBER (A)

A. K. Chatterjee
4.6.8
A. K. Chatterjee

VICE-CHAIRMAN.