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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Date of order : 25.5.1995.

O.A.NO.192/95

SAWAI SINGH

... Applicant

Versus

UNION OF INDIA AND ANOTHER

... Respondents

Present:

Mr.D.C.Sharma, Counsel for the Applicant..

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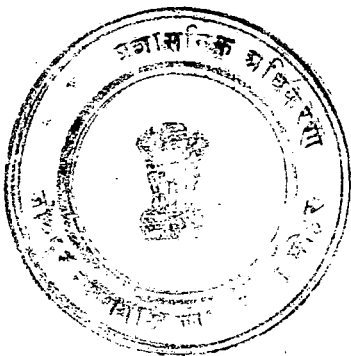
CORAM :

THE HON'BLE MS.USHA SEN, MEMBER (ADMINISTRATIVE)

BY THE COURT :

This application has been filed with a prayer to give the applicant compassionate appointment and to quash the order dated 8.8.1994 (Annex.A-1) rejecting the representation of the applicant for compassionate appointment.

2. The father of the applicant died on 27.7.68 while he was working as Mail Officer in the Post and Telegraph Department, Jodhpur. At that time the applicant was a minor. In the financial year 1987-88 the applicant submitted an application for compassionate appointment to the respondent no.2. He also submitted the particulars regarding his bio-data and members of his family and his father's family etc. However, no action was taken on the application. Thereafter, the applicant filed an O.A. in this Bench which was decided on 5.4.94 (Annex.A-10) with the direction that the application dated 1.2.88 of the applicant for his compassionate appointment may be considered by the respondents as per the extent rules within a period of three months. Consequently, his application was considered



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and the respondents have rejected the same by the impugned order dated 8.8.94. The grounds for the rejection are as stated below :-



"1). The case is not one of rendering immediate assistance to a needy family.

2). There is no liability.

3). No timely application was made. The case is 27 years old.

4). The elder brother is already employed.

5). The family has immovable property."

3. The counsel for the applicant was heard. The main argument of the counsel is that the facts stated in the impugned order dated 8.8.94 that the applicant possess immovable property and that his elder brother is already employed are incorrect, ~~facts~~. He has further stated that the application was made within 20 years and, therefore, it is not time barred.

4. I have perused the Annexures attached to the OA.

It is seen that the letter dated 12.2.86 at Annex.A-9 of the Department of Posts states that if any application for compassionate appointment is made after a lapse of 20 years of the death of the erstwhile employee it should not be entertained. However, there is a ^{latter} letter dated 17.2.88 from the Director General, Posts, New Delhi, which is also annexed as and which Annex.A9 states that if at the time of the death of the employee his ward was below 18 years of age and who alone was available for employment, he should apply for a job as soon as he attains the age of 18 years. There is a further letter dated 17.10.88 also at Annex. A-9 which inter-alia mentions that "the requests for

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compassionate appointments where death of the government servant took place more than five years before the date of application, should be considered with utmost care. The very fact that the family has been able to manage somehow for such long periods as more than five years after the death of government servant is sufficient proof that the family had some dependable means of subsistence. As such, the very concept of compassionate appointment which is related to the need for immediate assistance to the family is defeated and providing of employment to a ward in such belated cases does not serve this purpose."

5. It would appear from the facts of the case that the application of the applicant was entertained but had not found favour amongst other grounds for the reason that the case was 27 years old. It is seen that the first application of the applicant was submitted in the year 1987-88 when the applicant was near about 20 years old i.e. not strictly in accordance with the instructions dated 17.2.1988 ibid which enjoin that the application should have been submitted as soon as the ward attained the age of 18 years. Also, in view of the instructions dated 17.10.1988 mentioned in the preceding para it may not be possible to question the view of the respondents that since the case was 27 years old when it was considered by them or about 20 years old at the time his application was first submitted his case had become weak.

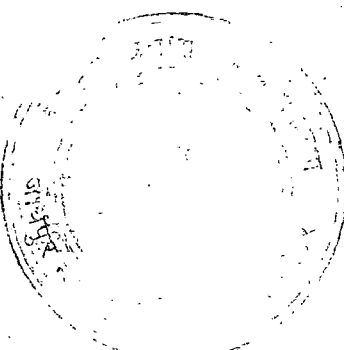
6. The other argument of the Counsel for the applicant is that the statements made in the impugned order dated 8.8.1994 that the family of the applicant possess

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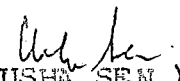
immovable property and that his elder brother is already employed are incorrect. He has stated that the applicant possess no immovable property and that his elder brother is actually not employed.

7. It may be mentioned that considering the law on the subject of compassionate appointments the Madras Bench in its judgment dated 10.8.94 in CA No.P-39/93 has observed as under :-



"The respondents have considered the claim of the applicant and rejected the same on merits. The courts can only direct the department to consider the claim of persons seeking appointment on compassionate grounds if they failed to pass orders on merits. In the present case the respondents have considered the case of the applicant and found that the family is not in indigent circumstances, and rejected the claim of the applicant. Hence, we are unable to agree with the counsel for the applicant that the impugned order is liable to be set aside and the respondents should be directed to give to the applicant appointment on compassionate grounds."

8. Keeping in view the law in the matter and the judgment of the Madras Bench as aforesaid I consider that in case the applicant has some complaints regarding the facts about the possession of property by him not having been considered correctly by the respondents or regarding the liabilities of the family of his father who died while serving in Post and Telegraph Department he may approach the respondents again in the matter and in case he so approaches his application in the matter may be replied by the respondents with a speaking order answering all the points raised that he might raise therein, within a period of three months from the date of submission of such an application. The respondents are hereby directed accordingly. With this direction the OA is disposed of at the admission stage. A copy of the OA may be sent to the respondents alongwith a copy of this order.


(USHA SEN)
MEMBER (A)

Part II and III destroyed
in my presence on 26/11/70
under the supervision of
section officer [signature] as per
order dated 4/9/70

[signature]
Section officer (Record)

Copy of order dt. 25-11-70 - 3.
Copy of OA with Annexes
1 to 30 sent to RESP. 1 to 2
By Regd. Post vide NO 77/60/272
dated - 6-6-75

only
5/6/75