

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

O.A. No. 236/2001

Date of order: 03.05.2002

Abdul Jabbar Pathan son of Late Shri Abdul Sattar Pathan, aged about 29 years, resident of Regar Mohalla, Jahajpur, Bhilwara. The Post of Sub-post Master, Jahajpur Mandi, Bhilwara.

...APPLICANT

VERSUS

1. Union of India through the Secretary, to the Government of India, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Superintendent of Post Offices, Bhilwara Division, Bhilwara.
3. Chief Post Master General, Rajasthan Circle, Jaipur.

...RESPONDENTS

Mr. Amit Dave, brief holder for
Mr. P.P. Chaudhary, counsel for applicant.

Mr. S.K. Vyas, counsel for respondents.

COURT:

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER.

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

ORDER

(Per Hon'ble Mr. J.K. Kaushik, Judicial Member)

The applicant Abdul Jabbar Pathan has filed this O.A. for quashing the impugned order dated 5.3.2001 (Annexure A/9) at

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order dated 21.3.2001 (Annexure A/10) while which his claim for appointment on compassionate grounds has been turned down and a further direction has been prayed for reconsideration of the appointment of the applicant on compassionate grounds on a suitable post objectively as per the rules, with all consequential benefits.

2. The brief facts of the case are that applicant is the son of late Shri Abdul Sattar who expired on 16.4.98 while in active service and holding the post of Sub-post Master, Jahajpur Mandi. It is averred that the deceased government servant was survived with wife, two sons and three daughters. The said deceased government servant left with a small dwelling house. The mother of the applicant has been sanctioned an amount of Rs 2562 as a family pension and she was not in a position to undertake any employment due to age, qualification and her physical condition. It is also stated that the whole amount of the terminal benefit received by the mother of the applicant had to be spent to meet the outstanding dues as well as the expenditure involved on the death of his deceased father.

3. The applicant has passed Higher Secondary Examination and remains unemployed. Her mother submitted an application to the respondent-department for considering the appointment of the applicant on compassionate grounds. No objection certificates were also obtained and submitted in respect of the other members of the family of the deceased. However, the case of the applicant has been turned down vide an order dated 5.3.2001 which is an

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unsigned order and is in a cyclostyle form. It has also been mentioned that while/of the applicant cannot be treated as a member of the family of the deceased and her mother cannot be treated as an earning member simply because she is getting family pension.

4. The multiple grounds have been taken in Original Application in support of the claim of the applicant for reconsideration of his appointment.

5. Show-cause notices were issued on 26.9.2001 to the respondents regarding admission and for filing their reply. The respondents have filed the reply to the O.A. and have submitted that widow of the deceased is getting family pension amounting of Rs 2562, terminal benefit to the tune of Rs 3,22,102 have also been paid, the applicant himself is an LIC Agent and earning an amount of Rs 8,500 per annum and also the wife of the applicant is a MP BKY Agent and her income is about 50,000 per annum. It has been said that the Circle Selection Committee after examining the case thoroughly did not find the case as indigent one which required immediate assistance and thus the case was rejected. Further, it has also been said that all the daughters of the deceased government servant are married and the family does not have any special social liability. The applicant is also married and has his own means of livelihood. It has also been mentioned that non-signing of the impugned letter is a bonafide omission and the contents of the same are confirmed. They have referred to number of judgements in support of their contention and have submitted that applicant does not deserve any relief and his application is liable to be rejected.

6. We have heard the learned counsel for the parties and have carefully perused the records of the case.

7. The learned counsel for the applicant has argued that the claim of the applicant for compassionate grounds appointment has been rejected by passing a non-speaking and a cyclostyle order. He has reiterated the grounds taken in the O.A. However, the various figures of the amount mentioned in the impugned order regarding the amount of family pension, terminal benefit, the income of applicant and the income of his wife. It is observed and seen from the records that the applicant is a married one and is having his own family. This fact has also been mentioned in the reply to the O.A. and is otherwise also undisputed inasmuch as the applicant himself has stated in the O.A. that the wife of the applicant cannot be treated as a member of the family of the deceased. We feel that the controversy in this case can be resolved on a short point as to whether a married son of a deceased government servant can be considered for appointment on compassionate grounds.

8. The respondents in para 4(3) of the reply have mentioned that the applicant is married and has his own means of livelihood. This controversy had come for consideration before this Bench of the Tribunal in some of the OAs earlier and the consistent view held by this Bench is

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that a married son of a deceased employee is not eligible to be considered for appointment on compassionate grounds for the reason that the married son cannot be considered as a dependent of the ex employee. This view was held in the decision dated 11.10.2001 in OA 263/2000 (Smt. Kadi & Anr. v. UOI & Anr.), reiterated again on 2.11.2001 in OA 306/2001 (Balwant Singh v. UOI & Anr.) and dated 5.2.2002 in O.A. 250/2000 (Smt. Pani Devi & Anr. v. UOI & Anr.).

9. In order dated 5.2.2002 in OA 250/2000, this Hon'ble Tribunal has given his findings as under:-

"5. As we have stated in the begining, this Bench has held a very definite view that a married son cannot be considered as a dependent for the purpose of seeking employment on compassionate grounds. We are further fortified by the decision of the Government, communicated vide memorandum dated 5.3.98, which in para-3 clarifies that:

"It is further clarified that the family pension to the sons/daughters will be admissible till he/she attains 25 years of age or upto the date of his/her marriage/re-marriage whichever is earlier (emphasis supplied)."

If a married son is not entitled to receive family pension, he certainly cannot become a claimant for appointment on compassionate grounds."

10. We are in full agreement with the aforesaid judgement of this Hon'ble Tribunal and the same judgement squarely covers the controversy involved in the present case.

11. In view of the aforesaid discussions, there is no merit in this Original Application and the same is hereby dismissed. No order as to costs.


(J.K. KAUSHIK)

Judl. Member


(GOPAL SINGH)

Adm. Member

Part III and III destroyed
in my presence on 12-7-67
under the supervision of
Security Officer (1) as per
order dated 14-12-67

Security Officer (Record)

✓ my
✓ 7/5/68

✓ 7/5/68