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CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO: 324/2001

DATE OF ORDER: 31.10.2002

Tulchha Ram S/o Shri Dhula Ram,
Ex. E.D.M.C. & Surewala Rillage (Extra Department
Master) Tibi Dist. Hanumangarh.

...APPLICANT

V E R S U S

1. The Union of India
through the Secretary,
Ministry of Communication,
Dept. of Post, Dak Bhawan,
New Delhi.
2. Superintendent of Post Offices,
Sriganganagar.

...RESPONDENTS.

For the applicant: Mr. D.K. Chouhan, Advocate.
For the respondents: Mr. Vinit Mathur, Advocate.

CORAM:

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

O R D E R

PER KAUSHIK, JUDICIAL MEMBER:

Shri Tulchha Ram is the son of deceased Government
servant late Shri Dhula Ram. Late Shri Dhula Ram was
employed on the post of E.D.M.C. & Surewala Village,

Tibi District Hanumangarh and expired on 06.02.2001

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after serving the Department for about 26 years. The deceased Government servant was survived with wife and one son i.e. applicant, dependent on him in addition to three married daughters.

2. The further case of the applicant is that he completed the requisite formalities for grant of compassionate appointment. It was also informed to the department that the case of the applicant for appointment may be considered at any place in Sriganaganagar Circle. But his case has been turned down vide impugned order dated 03.08.2001 (Annexure A/4). The Original Application has been submitted on the ground that the impugned order is illegal because it is a non-speaking and the application could not have been rejected and instead the name of the applicant would have been entered in the waiting list for appointment on compassionate ground. The applicant has prayed for seeking the direction to give him the appointment as E.D.M.C. in place of his father and in the alternative enter his name in the waiting list for grant of compassionate appointment.

3. The respondents have contested the case and have filed a detailed counter reply to the Original Application. It has been stated in the reply that the case of the applicant was considered and taking into the liability of the family, education of minor, marriage of daughters etc. and his case has been rejected since there was no such liability and he was not found to be as indigent in comparison to others. It has been further mentioned that the Circle Selection Committee after due application of mind has found the case of the applicant unfit for compassionate appointment and this Hon'ble Tribunal

would not like to substitute its judgement sitting as an appellate authority. The deceased father of the applicant served for about 25 years and 1 month and the family received all terminal benefits to the tune of Rs. 58,000/- and there was no social liability to be fulfilled by the family of the deceased. The applicant is said to be an agricultural labourer who earns his livelihood and they have their own dwelling house. All these factors have been taken into consideration by the Circle Selection Committee and case was not found fit. As regards the reply to the grounds it has been submitted that vacancies for the purpose are only to the extent of 5% and there are number of persons waiting in the queue, the most indigent case is required to be selected, thus, the action of the respondents is perfectly just and proper. The O.A., therefore, deserves to be dismissed.

4. A rejoinder to the reply has been filed by the applicant and it has been submitted that no details of the ^{deceased} person employed on compassionate ground in place of ~~xxxx~~ has been given. The applicant is not agricultural labourer and the certificate of his working has been annexed to this effect.

5. An additional reply to the rejoinder has been filed and it has been submitted that the applicant's income is Rs. 12,000/- per year from all sources and as per the application dated 21.03.2001 (Annexure R/2) it has been submitted that the members of the family are agriculture labourer.

6. I have heard Mr. D.K. Chouhan, learned counsel for the applicant as well as Mr. Vinit Mathur, learned counsel for the respondents and have carefully perused the records of this case.

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The respondents were also directed to produce the relevant record/file wherein the case of the applicant has been considered and they have been fair enough to make the same available, accordingly.

7. Chapter-X of Swampy's Compilation of Service Rules for Postal ED Staff contains the instructions regarding compassionate appointment to dependent of EDAs. Inter alia, it has been provided by the instructions that the ED posts are isolated and well spread out. It is, therefore, necessary that a vacancy caused due to death of ED Agent is filled up by appointing one of his/her dependent or near relative on compassionate grounds. If it is not done, it would be quite difficult to give compassionate appointment in hard cases. This is the special feature in case of the ED Agents, the other normal conditions and the requirement meant for dealing with compassionate appointment in respect of dependents of the deceased Government servant applying to the case of ED Agents also. However, certain further relaxations have been provided regarding the qualification to the Widow of the deceased Govt. servant which is of course not relevant to the controversy involved in the present case.

8. Both the counsels have reiterated the facts and grounds mentioned in the pleadings. Mr. Vinit Mathur, learned counsel for the respondents has fairly submitted that the case of the applicant was duly considered by the Circle Selection Committee and the relevant file may be perused by this Hon'ble Tribunal. I have considered the rival contentions pleaded on behalf of the parties and there is hardly any dispute regarding the factual aspects of the case. It is the admitted position

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of the case that the deceased Government servant was survived by his Widow and the applicant. The applicant is earning an amount of Rs. 12,000/- per year. The terminal benefits to the tune of Rs. 58,000/- have been paid, the family has got a dwelling house. All the three daughters are married, of course, certain post marriage expenses of three married daughters as per Rajasthani Social Customs is involved. A noting was made in the matter which was put up to the Central Relaxation Committee (the term has been wrongly used in the reply as Central Selection Committee) by some Subordinate Authority in the following terms:-

"No family member is in Govt. service. The applicant is the only member of the family. The earning of the applicant at present is majdoori. There is no source of income. The SPOs Sriganaganagar has not recommended the case keeping in view no liability of the family. Family is not in indigent condition."

This noting has been made by SPOs Sriganaganagar. Thereafter the case was put up to the Central Relaxation Committee and the same has been rejected only on the ground that there is no liabilities. No other reason have been given and it seems that the Central Relaxation Committee was only ratifying the decision of the Subordinate Authority i.e. SPO Sriganaganagar. I am of the view that there was no material to arrive at the decision that family was not in indigent condition in the present case, since the annual income in this case has been indicated to be Rs 12,000/- per year. The special feature in the present case is that no family pension is admissible to the ED Agents and thus the mother of the applicant is not in receipt of any family pension.

9.

While it is true and evident that Annexure A/4 is a

non-speaking order and does not disclose any reason for rejection. The respondents in their reply have submitted that the case of the applicant was not found to be as indigent in comparison to others as per para (A) of brief facts of the reply. Similarly in reply to ground A & B, it has been mentioned that number of persons were waiting in queue and the most indigent case is required to be selected for compassionate appointment. From the record, it is seen that there was no other case under consideration alongwith the case of the applicant for grant of compassionate appointment. And it could not have been so because the compassionate appointment is to be granted against an isolated post which was held by the father of the applicant. As per the rules in vogue, the compassionate appointment in such cases are to be considered against the post which was held by the deceased Government servant for grant of appointment to the dependent member of such Government servant. In this view of the matter the contentions of the respondents that the applicant's case was considered in comparison to others in regard to the indigency and other conditions stands falsified. Further the case of the applicant has been said to be turned down on the ground of no liability. It is not understood which type of liability the respondents expected so as to satisfy the grant of compassionate appointment. The Widow of the deceased Government servant having no source of income would have been considered a sufficient liability if at all one of the ground for consideration of the compassionate appointment is the liability. However, I find that the case of the applicant has not been examined with due application of mind by the Central Relaxation Committee. It has only ractified

the decision of the Superintendent of Post Offices as is evident from the noting in the relevant file/record. In my opinion, the case of the applicant has not been considered in the true spirit and objective of the grant of compassionate appointment. Thus, the impugned order cannot be sustained and the Original Application has force and deserves to be allowed.

10. In the premises, the Original Application is allowed. The respondents are directed to consider the case of applicant afresh for grant of compassionate appointment on the post of EDMC Surewala in accordance with the relevant instructions/rules and keeping in view the above observations within a period of three months from the date of receipt of a copy of this order. The impugned order dated 03.08.2001 (Annex. A) stands quashed. However, there shall be no order as to costs

J.K. Kaushik
(J.K. KAUSHIK)
Judl. Member

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