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**Central Administrative Tribunal
Jodhpur Bench, Jodhpur**

Original Application No. 208/2003
Date of Decision : This the 12th day of October, 2004.

Hon'ble Mr. G.R. Patwardhan, Administrative Member

Smt. Babul Kanwar Widow of Late Shri Himmat Singh Parihar, resident of 32 A II Polo Opposite Fire Brigade, Jodhpur. Her Husband last served as Postal Assistant in Sub Post Office, Krishi Mandi, Mandore, Jodhpur.

.....Applicant.

[By Mr. Ashok Thakwani, Advocate, for applicant]

Versus

1. Union of India through the Secretary,
Ministry of Communication,
Department of Post and Telegraph,
Dak Bhawan, New Delhi.
2. The Post Master General,
Department of Post, Dak Bhawan,
Sansad Marg, New Delhi.
3. The Chief Post Master General,
Rajasthan Circle, Jaipur.
4. Senior Superintendent of Post Offices,
Jodhpur Division, Jodhpur.

.....Respondents.

[By Mr. M. Godara, Adv.brief holder for Mr. Vineet Mathur, for respondents]

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ORDER
[BY THE COURT]

This application by Smt. Babul Kanwar, widow of late Shri Himmat Singh Parihar, is for seeking appointment on compassionate ground on the post that was being held by her late husband. The respondents are the Union of India through the Secretary, Department of Posts, Chief Post Master General,

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Jaipur, Post Master General, New Delhi and the Senior Superintendent of Post Offices, Jodhpur. A specific challenge has been led to the communication from the Senior Superintendent of Post Offices, Jodhpur, i.e. respondent No. 4 to the applicant dated 17.3.2003, a copy of which is placed at Annex. A/1.

2. The brief facts of the case are as follows. The husband of the applicant late Shri Himmat Singh was serving as a Postal Assistant at Krishi Mandi, Mandore Road, Jodhpur in Sub Post Office and died in a road accident on 4.9.1998. Soon thereafter, the applicant - widow approached the Superintendent of Post Offices, Jodhpur on 30th October, 1998 with a request to provide her appointment - especially in view of the fact that she was saddled with the responsibility of (three) bringing up children - all minors and did not have any other means of support. It appears from Annex. A/4 that all the required details were made available. Necessary certificates of income from movable or immovable property was also furnished by the Tehsildar, Jodhpur confirming that the deceased did not own any immovable property. However, the respondent No. 4 communicated the decision vide his letter dated 17.3.2003 that (a) the Circle Selection Committee considered the matter on 28/29.1.2002 ; (b) the deceased left behind the widow, an unmarried son and two unmarried daughters ; (c) the applicant was eligible for appointment in group 'D' ; (d) the applicant was getting Rs. 2250/- and dearness allowance as monthly income; (e) Rs. 1,82,541 lakhs has been paid as terminal benefits; (f) the



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committee came to the conclusion that the family was not indigent and so her application stood rejected.

3. This communication has been challenged on the following grounds :-

- (a) the matter has ^{not} been considered objectively;
- (b) grant of terminal benefits and pension do not matter much as they are receivable by all employees or their families;
- (c) the department failed to consider that the widow was left with three small children and had no immovable property and
- (d) the department took five years to decide the case and that also by communicating a cyclostyled order.

4. Reply has been filed by the respondents where the following points have been admitted :-



- (i) Though the application was received on 6.8.1999 by the Circle Office, the case could be considered by Circle Relaxation Committee only on 17/18.1.2001 i.e. after nearly a year and a half.
- (ii) 54 other cases were considered for similar purposes and 17 cases were ^{sort} listed for further screening.
- (iii) There were 12 ^{sort} vacancies available for direct recruitment and thus only one vacancy became available for compassionate appointment being 5% of the total.

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(iv) On comparative study of all the cases , the case which was most indigent was approved for appointment.

5. The learned counsel for both the parties have been heard. While the respondents have stood by their written submissions and have submitted that there is nothing more to add, the learned counsel for the applicant has sought support from a judgement of Hon'ble High Court of Rajasthan in Suresh Kumar Sharma Vs. Union of India and Ors. in C.W.P.No. 2147/2002 decided on 31st January, 2003, where it was held that the family of the deceased having received retiral benefits and being in possession of even around four bighas of land, could not be considered ineligible as retiral benefits and the family pension are the rightful properties independent of what the Government would extend by way of appointment on compassionate ground.



6. While respondents may be justified in coming to the conclusion that among the different claimants for such appointment, the case of the applicant was the weakest, it goes without saying that there has to be adequate material to draw this conclusion and it should be such that a reasonable and prudent man would also be able to appreciate the decision. It would be no one's case that every one saddled with the responsibility of bringing-up minor children without the support of the sole bread winner must be given a government job. But, when there is a scheme to consider such cases and the scheme envisages consideration of such requests in given parameters by

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the department, and the respondents maintain that the case was considered by the Circle Selection Committee constituted as per the scheme, it is presumed that it has done the exercise by observing all the requirements contained in different Office Memorandums of the Department of Personnel and Training as also their own departmental Guidelines. When there are competing claims before the department, naturally the most deserving by being placed in the category of indigent, should be provided the relief. It is therefore all the more obligatory on the part of the authorities to approach the problem in the most objective fashion and to come to a conclusion. While the applicant has not said that due procedure has not been followed but the tenor of her arguments seems to be that the communication sent to her, does not disclose how her case was considered in the given parameters and how she did not qualify. To that extent, the impugned order suffers and is not defensible.



7. The Application is, therefore, allowed and the impugned communication at Annex.A/1 is quashed. The respondents are directed to go through the case again and if required, consider the matter afresh, pass a reasoned and speaking order within 90 days of receipt of this order and communicate the same to the applicant. No order as to costs.

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[G.R.Patwardhan]
Administrative Member

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Part II and III destroyed
in my presence on 30/10/13
under the supervision of
section officer () as per
order dated 18/10/2013

J.R. Smith
Section officer (Record) 30.10.2013

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