

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR**

Date of Decision : 17-07-2003

O.A. No.38/2003.

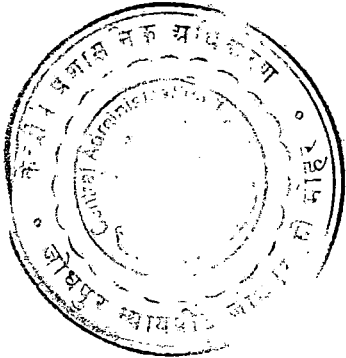
Chanchal Singh S/o. Late Shri Karni Singh Tomar aged about 24 years, by caste Rajput, R/O Tilak Nagar Bikaner (Rajasthan).

... Applicant.

V e r s u s

1. Union of India through Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Assistant Director (R), Office of the Chief Post Master General, Rajasthan Circle, Jaipur (Rajasthan).
3. Superintendent Of Post Offices, Bikaner Division, Bikaner (Rajasthan).

...RESPONDENTS.



Mr. S.K.Malik, counsel for the applicant.

Mr. Vinit Mathur & Mr.Mahendra Godara, counsel for the respondents.

CORAM

Hon'ble Mr. R.K.Upadhyaya, Administrative Member,
Hon'ble Mr. J.K.Kaushik, Judicial Member.

: O R D E R :

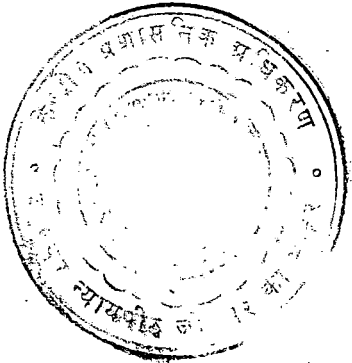
(R.K.Upadhyaya, Administrative Member)

This application is directed against decision of the Respondents as communicated to the applicant as per letter dt. 17.4.2002 (Annexure - A-1) refusing compassionate appointment to the applicant.

2. It is claimed that the applicant's father Late Shri Karni Singh Tomar was working on the post of Superintendent and

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died in harness on 9.2.2000. It is claimed by the applicant that after the death of his father, his mother (widow of the deceased government employee) made an application for giving compassionate appointment in favour of the applicant. It was claimed that the members of the family of the deceased government employee were in indigent condition and needed financial help by way of compassionate appointment. It is also claimed that the deceased government servant had left behind his widow, five sons and one daughter. Two elder sons of the deceased government employee were married and were staying separately and the remaining members of the family were living in a rented house. It is also claimed that there was no other source of income except family pension. The claim for compassionate appointment had been rejected on the ground that family had received terminal benefits to the tune of Rs.6,06,796/- and getting regular family pension of Rs.4500 + Dearness Relief per month. In the impugned order dt. 4.4.2002 (Annexure - A-1) it is stated that there was ceiling of direct recruitment quota prescribed for compassionate appointment under the existing Rules and the committee constituted for consideration of compassionate appointment did not find the case of the applicant suitable for recommendation for appointment on compassionate ground. The Learned Counsel of the applicant invited our attention to certain judicial pronouncement in support of his claim that the compassionate appointment cannot be rejected solely on the ground that terminal benefits have been paid to the members of the deceased government servant. He invited our attention to the



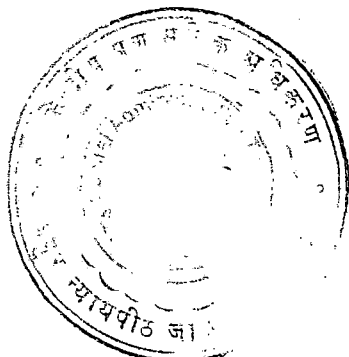
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reply filed by the respondents wherein it has been stated as follows.

"That from the above, the financial conditions of the family is not indigent as already all the sons and daughter have grown up and are major and two elder sons are living separately and there is no vacancy available for the purpose in the Department."

The Learned Counsel stated that the family included five sons of the deceased government servant. It is not relevant that two elder sons were earning for themselves or not, because the remaining members of the family consisting of widow, three sons and a daughter were living together and the present employment was being sought to help this family only. The Learned Counsel laid stress on the point that if there was no vacancy, the Respondents should not have entertained the application of the applicant at all, Whereas, in this case, the material has been called for and the case of the applicant had been considered. Inviting our attention to certain other decisions of a co-ordinate Bench of this Tribunal, it was claimed that such a consideration was merely a formality. As a matter of fact, the applicant is eligible and should have been given appointment and if there was no vacancy, the consideration was not a consideration at all.

3. The Respondents, in their reply have stated that the object of giving compassionate appointment to the surviving members of the deceased government employee is to give financial help at the time of loss of sole bread winner. According to the Learned Counsel for the respondents, mere receipt of terminal benefits may not be the only criteria, but certainly it is one of the relevant factors while considering the financial condition of the



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family. In this case, the terminal benefit of Rs.6,06,796/- was received by the family, besides family pension of Rs.4,500/- + DR was also being paid on monthly basis. In the context of general standard of family, this cannot be said to be extremely poor condition. In the reply it has been stated that ".....The family of the deceased is not in an indigent condition, as all the sons and daughter had grown up and two elder sons are living separately. The widow has not disclosed about the livelihood of two elder sons who are living separately". According to the Learned Counsel for the Respondents the other factors of the case have also been considered. The deceased employee had rendered 35 years of service and was to retire otherwise in a year or so. According to the Learned Counsel of Respondents, the committee for considering compassionate appointments had to consider the cases of all the applicants and on relative merit, the case of the applicant was not found suitable for employment on compassionate grounds.

4. We have heard the Learned Counsel of both the parties and have perused the materials available on record.

5. There is no dispute that the receipt of terminal benefits cannot be the sole criteria for rejecting the claim for compassionate appointment. However, the totality of the facts have to be examined to assess the financial need of the members of the family. Compassionate appointment is not given as if it is available as a matter of inheritance to the deceased government employee. This scheme is to render immediate help to the surviving members of the family so that they can lead a normal life even after the death of the

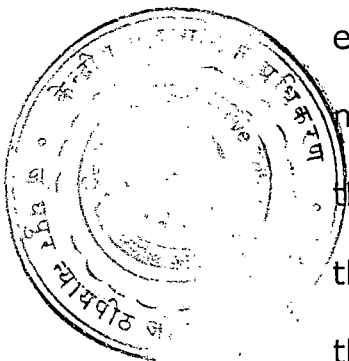


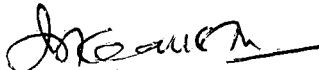
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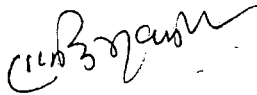
government employee. In this case, we find that the deceased government servant was survived by his five sons and one daughter, besides his widow. The applicant has conveniently not given the details of the two elder sons. Whether those elder sons are still looking after the surviving ^{family} members of the deceased is also not very specifically pointed out. There is also no dispute that the compassionate appointment as per scheme has to be restricted to 5% of direct recruit vacancy of that year. When the Respondents stated that there was "no vacancy" perhaps they meant that there were not enough vacancies to offer employment on compassionate appointments to all the claimants.

6. In view of the facts that the case of the applicant was examined by the Committee constituted for the purpose, we do not find any justification to direct the Respondents to consider the case of the applicant afresh. Prima facie also, we do not find that the respondents have committed any error in implementing the scheme for compassionate appointment.

7. In view of the facts and reasons given in the preceding paragraphs, we find no merit in this O.A. and dismiss the same without any orders as to costs.




(J.K. KAUSHIK)
JUDICIAL MEMBER


(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

B.

APD
Approved
6/15/20
J/d

Part II and III destroyed
in my presence on 29-3-09
under the supervision of
section officer () as per
order dated 17-12-09

Section officer (Record)

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