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CENTRAL ADMINISTRATIVE TRIBUNAL

ORIGINAL APPLICATION NO. 121/2003
DATE OF DECISION : THIS THE 20 TH DAY OF FEB., 2003

CORAM :

**HON'BLE MR. G.R. PATWARDHAN,
ADMINISTRATIVE MEMBER**

Bhanwar Lal S/o Late Shri Dhanna Ram
By caste Nayak, aged 28 years, Resident of
Near Pabuji Temple, Nayako Ka Mohalla,
Village & Tehsil Loonkaransar, Distt.Bikaner.

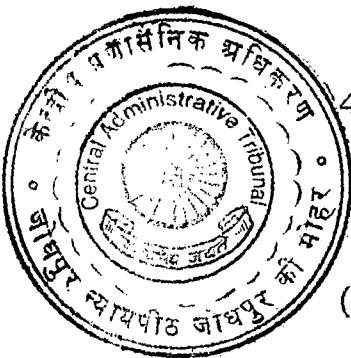
.....Applicant.

(By Advocate Mr. Bhim Kant Vyas, for applicant)
versus

1. Union of India through the Secretary, Communication Department, New Delhi.
2. The Post Master General, Department of Post, Dak Bhawan Sansad Marg, New Delhi.
3. Superintendent of Post Offices, Bikaner Division, Head Post Office, Bikaner.
4. Post Master General Rajasthan, West Region, Jodhpur.

.....Respondents.

(By Advocate Mr. Vineet Mathur, for the respondents)



**ORDER
[BY THE COURT]**

This is an application by Shri Bhanwarlal, whose father late Shri Dhanna Ram, was employed in the office of respondent No. 2, the Post Master General, as Postman and died while in service on 24.11.1998. In due course of time, the petitioner through his mother, approached the respondents for seeking an appointment on compassionate ground and also submitted relevant papers

and certificates as are required. It is the claim of the petitioner that he possesses all the requisite qualifications and is eligible for appointment as Postman but, despite that vide a communication issued on 8.1.2002, petitioner's claim for compassionate appointment has not been favourably considered. It has, therefore, been prayed that the communication addressed to the petitioner vide Annex. A/6, referred to above of 8.1.2002 be quashed and the respondents be directed to appoint the petitioner on the post which was held by his late father.

The admitted position is that petitioner's father had put in about 27 years of qualifying service and that his mother, widow of the late employee, is receiving monthly (family) pension of Rs. 2100/- and other admissible allowances. It is also not disputed that the family of the deceased has received terminal benefits to the tune of about Rs. 2.3 lakhs and that the family owns a house and possesses some agricultural land.

2. The communication under challenge, at Annex.A/6 gives in detail the circumstances in which the application for compassionate appointment was considered by a Circle Selection Committee constituted for the purposes and the factors that weighed with them in coming to the conclusion that the case was not fit for consideration for appointment on compassionate grounds. It may be appropriate to reproduce the essential part of the communication to appreciate the reasoning offered :-

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"Copy of letter No. Rectt./4-63/2000 dated 19.12.2000 received from the Chief P.M.G. Raj. Circle, Jaipur - 7 and a/to all PMG Raj. (W) Region, Jodhpur and received under Endst. No. Rectt/WR/4-1/8/2001 dtd. 2.1.2002 from the PMG Raj. (WR) Jodhpur and a/to this office.

Sub :- Appointment case of Shri Bhanwar Lal S/o Late Shri Dhanna Ram Ex Post Master Bikaner Dn. On compassionate grounds.

Ref :- Your office case mark Rectt/WR/4-1/2001 dated 24.8.2001.

I am directed to inform you that the appointment case of aforesaid candidate has been considered by the Circle Selection Committee on 18.9.2001. The observations of the Circle Selection Committee are as under :-



The C.S.C. observed that ex-employee expired on 24.11.98 after rendering 27 years service in the Deptt. The deceased had left widow and a son behind him. The only son (applicant) is Major and married. The family owns house to live in and possessing agriculture land from which there is additional income of Rs. 15000/- P.A. The family has received the admissible terminal benefits to the tune of Rs. 2,32,197/- and the widow is getting regular family pension of Rs. 2100/- + DRPM.

(2) The committee finds that there is no social liabilities such as marriage of daughter or education of Minor children. The financial condition of the family is not indigent.

(3) Besides, in view of 5% ceiling of DR quota prescribed for compassionate appointment under the existing instructions, there are no enough vacancies to accommodate the candidate within a year in the light of the existing orders and direct recruitment has been limited to 1/3 of the direct recruitment vacancies arising in the year subject to a further ceiling that this does not exceed 1% of the total sanctioned strength and orders or DOP&T 5% of the above vacancies arising in the year well go to the really deserving candidates under compassionate appointment quota.

As such the committee does not find the case to be fit for consideration for appointment on compassionate grounds keeping in view financial condition as discussed above and a very small quota left behind the purpose."

3. The learned advocates for both the parties have been heard. In particular, the petitioner has challenged the

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communication referred to above on the ground of being arbitrary, discriminatory and nearly mala fide. The petitioner has also placed reliance on the judgement of the Hon'ble the Rajasthan High Court in S.K. Sharma Vs. UOI and Ors. in C.W.P. No. 2147/2002 decided on 31.1.2003. In this particular case, the Hon'ble Court came to the conclusion that the deceased employee had two unmarried daughters at the time of his death and it was only after the death of the concerned employee that one of the daughters got married and the major amount of terminal benefits was spent in the marriage of one of the daughters and also in payment of loans taken during the life time of the father of the petitioner. The Hon'ble Court, therefore, came to the conclusion that mere grant of retiral benefits and possessing some agricultural land by the family, could not be taken into account for the purpose of denying appointment on compassionate grounds. It, therefore, directed the respondents in that case to consider the case of the petitioner within a period of two months.

4. In the instant case, the petitioner submits that late Shri Dhanna Ram is survived by the widow and the petitioner-son. In addition to terminal benefits, it is admitted that he possesses a dwelling and also some agriculture land yielding some income. To that extent, the facts in the case before Hon'ble the High Court and the present one are materially different. The respondents have also submitted that even if the claim of the petitioner is considered as deserving, they are unable to proceed further due to non-availability of posts for such cases, which



needs to be found in 5% of the direct recruitment that takes place in a year.

5. Considering that the respondents have considered the claim of the petitioner from all angles, it appears difficult to accept the charge of arbitrariness, discrimination and mala fide in the impugned order. In the result, the application is dismissed with no order as to costs.

PR

[G.R.Patwardhan]
Adm.Member

jrm

Regd. D.D. Copy of order
sent to applicant vide No
99 dt. 3-3-2004

Applicant copy of order
sent as per D.D.

~~Copy~~
29/2/04

D.D.
24/3/04

~~part II and III annexed
in this presence on ...
under the supervision of
Section Officer (1) as per
order date~~

~~Section Officer (1) record~~