

CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 221/2002

DATE OF ORDER: 11.09.2003

Kanakmal son of Late Kachrulal, aged about 31 years
resident of Sagwara, Mohulla Bhoiwara, Distt. Dungarpur.

...APPLICANT.

V E R S U S

1. Union of India through
Secretary to Govt. of India,
Min. of Communication,
Department of Post,
Sansad Marg, Dak Bhawan,
New Delhi.



2. Chief Post Master General,
Rajasthan Circle,
Jaipur.

3. Superintendent of Post Offices,
Dungarpur Division, Dungarpur.

...RESPONDENTS.

Mr. B. Khan, counsel for the applicant.
Mr. Vinit Mathur, counsel for the respondents.

CORAM:

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

: O R D E R : (Oral)

It has been brought to my notice that due to typographical mistake, the date of the order has been wrongly written as 19.02.2002 instead of the actual date i. e. 19.02.2003 on the order.

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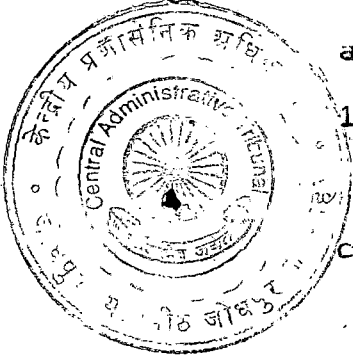
2. It is evident from the order-sheet that the order was actually passed on 19.02.2003 and wrong date has been indicated on the order.

3. It is, therefore, directed that the date of the order passed in O.A. No. 221/2002 (Kanakmal vs. Union of India and Others) shall be read as 19.02.2003 in place of 19.02.2002.

A copy of this order may be supplied to the learned counsel for the parties.


(J.K. KAUSHIK)
Judl. Member

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JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 221/2002

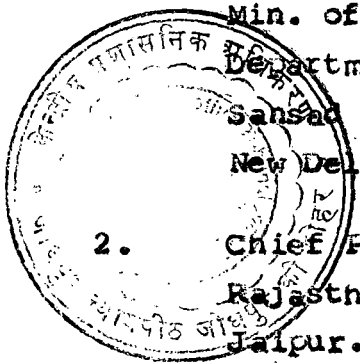
DATE OF ORDER: 19.02.2002

Kanakmal son of Late Kachrulal, aged about 31 years
resident of Sagwara, Mohulla Bhoiwara, Distt. Dungarpur.

...APPLICANT.

V E R S U S

1. Union of India through
Secretary to Govt. of India,
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CORAM:

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

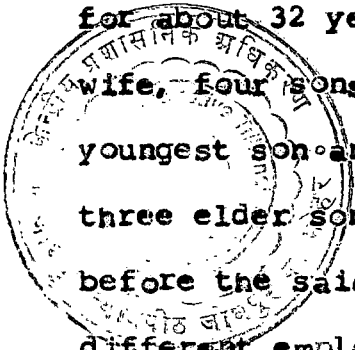
: O R D E R : (Oral)

Shri Kanakmal has filed this Original Application
under Section 19 of the Administrative Tribunals Act, 1985,
assailing the impugned order dated 22.01.2002 (Annex. A/1
vide which his claim for grant of compassionate appointment

: 2 :

has been rejected and turned down. He has further prayed to seek a direction to the respondents to reconsider his case on compassionate appointment on a suitable post.

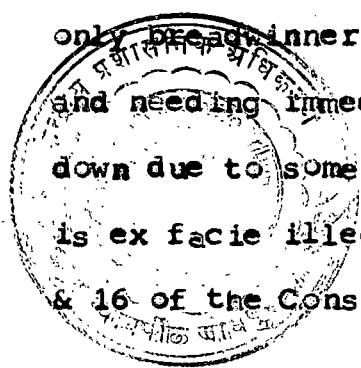
2. The factual matrix of the case of the applicant as narrated in the Original Application is that the applicant is the son of late Shri Kachrual. Late Shri Kachrual was employed on the post of EDMC in respondent department on 11.10.1965 when he expired. He served the department for about 32 years. Late Shri Kachrual was survived with wife, four sons and two daughters. The applicant is the youngest son and was dependent on his parents. Other three elder sons are leading their independent life much before the said demise of late Shri Kachrual and are in different employment. They were neither dependent on the deceased Government servant nor both daughters are married.



3. The further facts are that the deceased Government servant left about four Bighas of un-irrigated land and no pension or gratuity was granted. There is no other source of income and the family of the deceased Govt. servant is in indigent condition. The applicant has passed High School Examination and is remaining unemployed. His name is registered with employment exchange. He also worked as substitute for some time in the year 1997 and even after death of his father for about 2 years. The charge from him was taken over on 06.05.1999. An application was submitted for grant of compassionate appointment in respect of the applicant and the same remained under consideration for a protracted period which necessitated filing of O.A. No. 291/2000 before this Tribunal and the

same was disposed of with a direction to the respondents to consider the case of the applicant within a period of three months, vide order dated 23.10.2001. Thereafter the case of the applicant has been turned down on 22.01.2002 and vague reason has been given that no indigency made out and it seems that some extraneous material has been taken into consideration. No details are disclosed.

4. The Original Application has been filed on number of grounds and it has been submitted that the applicant is the only breadwinner of the family which is in indigent condition and needing immediate breadwinner. The case has been turned down due to some extraneous reasons and the impugned order is ex facie illegal, arbitrary and violative of Article 14 & 16 of the Constitution of India. Hence this application.



5. The respondents have contested the matter and have filed a detailed reply to the Original Application and it has been submitted that the case of the applicant has been considered after due application of mind and the same has been rejected. Further defence of the respondents as set out in the reply is that three sons out of four are earning their livelihood and daughters have already got married. The applicant is about 31 years of age and this Tribunal has taken a view that a person who is beyond 25 years of age, has no right for consideration for compassionate appointment. The mother of the applicant has been paid ex-gratia gratuity as per the rules in force and as such the family is not in indigent condition. There are certain other matters regarding engagement of late Shri Kachrulal have been mentioned in the reply.

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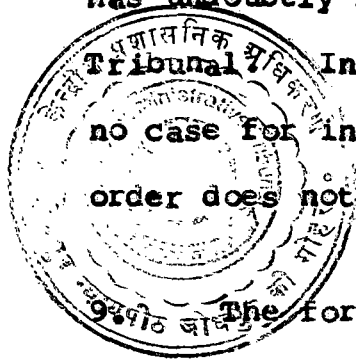
6. I have heard the learned counsel for the parties and have carefully considered the arguments, pleadings and the records of the case.

7. At the very out set, the learned counsel for the respondents has strenuously submitted that the applicant is of 31 years of age and cannot be said to be dependent for the purpose of consideration of appointment on compassionate ground and this position has been settled in a very recent judgement of the very Bench of this Tribunal in case of Budh Ram vs. Union of India & Ors. (O.A. No. 171/2002) decided on 17.02.2003. The matter is squarely covered on all ~~four~~ ^s and hence does not remain res integra. As per contra, the learned counsel for the applicant has tried to repel the contention raised on behalf of the respondents and has submitted that the father of the applicant died on 18.02.1998 and the matter was kept pending/consideration with the respondents. ~~Even~~ he has ~~approached~~ ^{approach} this Tribunal more than ~~once~~ ^{times} and the complete delay has been caused on their part. Even when he filed earlier application in the matter, it was said that the matter is under consideration which lead to issue a direction to the respondents to finalise the matter within a time bound period. He has also submitted that no ~~age~~ ^{age} has been prescribed under the rules relating to the grant of compassionate appointment.

8. I have considered the rival contentions led on behalf of both the parties and find that on the date of death of the father of the applicant, the age of the



applicant was about 26 years i.e. ~~more~~^{than} 25 years and a person who is above 25 years of age, cannot be said to be dependent for any purpose except if one is handicapped and even in the normal course is not entitled for any benefit, which may be available as a result of death of a Government servant. The contention of the learned counsel for the respondents has ample force and the controversy has undoubtedly been settled by the aforesaid order of this



Tribunal. In this view of the matter, the applicant has no case for interference by this Tribunal and the impugned order does not suffer from any illegality or arbitrariness.

The foregoing discussions invariably leads me to the conclusion that the Original Application deserves to be dismissed and the same is hereby dismissed. However, the parties are directed to bear their own costs.

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

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Kumawat

Part II and III destroyed
in my presence on 24-5-8
under the supervision of
section officer [Signature] as per
order dated 24-5-8
[Signature]
Section officer (Record)

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24/2
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16/9/81