

I/6

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

Date of Decision : 18.7.2003

**O.A. No.313/2002.**

Balwant Singh S/o Late Shri Aad Ram By caste Jag, Aged 26 years, Resident of Kuldiya, Village & Post Mal Kheda Via Chhani Badi Tehsil Bhadra, District, Hanumangarh.

... Applicant.

**Versus**

1. Union of India Through : the Secretary, Ministry of Communication, Postal Department, Dak Bhawan, Sansad Marg, New Delhi.
2. The Superintendent, Post Office, Post Office, Sri Ganganagar Division, Sri Ganganagar.
3. Shri Anil Kumar Meena Resident of Village & Post Mal Kheda Via Chhani Badi, Tehsil, Bhadra District, Hanumangarh.

...Respondents.

Mr. R.S.Saluja, counsel for the applicant.  
Mr. Vineet Mathur, 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 :**

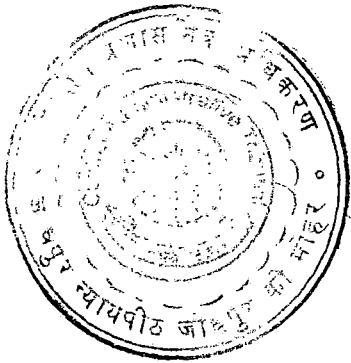
**(R.K.Upadhyaya, Administrative Member)**

By this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has sought quashing of orders of appointment dt. 7.8.2001 (Annexure - A-1) and order dt. 23.8.2002 (Annexure A/1A).



*Unregistered*

2. It is stated by the applicant that his father Shri Aad Ram<sup>who</sup> was working as Extra Departmental Agent at Malkheda B.O. Chhani Badi S.O. died in harness on 10.3.2001. The applicant being eligible for employment on compassionate grounds had requested the respondents for being appointed on the post of the deceased employee. However, the Respondent No.2 Superintendent of Post Offices Sri Ganganagar Dn. by his letter dt. 7.8.2001 (Annexure - A-1) informed the applicant that he could not be given the appointment on compassionate grounds. The applicant approached this Tribunal against the said order of the Respondent No.2, by filing O.A. No.306/2001 which was rejected by order dt. 2.11.2001 observing as follows :

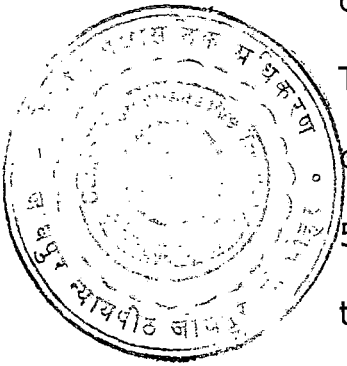


"It is apparent that the applicant has a family of his own i.e. his wife and 2 sons. Obviously, he has been considered to be capable of looking after his wife and raising children. In these circumstances, the applicant cannot be considered to be a dependent of the deceased and thus he cannot be entitled for consideration for appointment on compassionate grounds. The applicant has failed to make out a prima facie case in his favour and in that view this application is liable to be rejected."

3. Aggrieved by the order of this Tribunal, the applicant approached the Hon'ble High Court of Judicature for Rajasthan at Jodhpur by Civil Writ Petition No.4424/2001. The Hon'ble High Court by order dt. 13.5.2002 set aside the order of this Tribunal dt. 2.11.2001 and also the order passed by the Respondent dt. 7.8.2001 and directed the respondent Competent Authority to consider the case of the petitioner afresh for grant of appointment on compassionate ground in accordance with law and to make a reasoned order if the appointment was refused.

*Ans. Nagar*

4. Consequent upon the judgment of the Hon'ble High Court of Judicature for Rajasthan dt. 13.5.2002, the Respondent No.2 passed a fresh impugned order dt. 23.8.2002 (Annexure - A/A-1). This impugned order states that the case of the applicant was re-considered. The Respondents took into consideration the fact that all the sons of the deceased employee were major and married and there was no liability on the family. It was also observed by Respondent No.2 that the applicant's three elder brothers were staying separately with their family. The deceased employee had left behind sufficient agricultural land which was estimated to be worth Rs.45,000/- by the Tahsildar. Considering all these facts, the Respondent No.2 came to the conclusion that the applicant was not in indigent circumstances. Therefore, his case was rejected by the Committee for consideration of appointment on compassionate grounds.



5. The Learned Counsel of the applicant invited attention to the decision of Hon'ble Rajasthan High Court in the case of Suresh Kumar Sharma Vs. Union of India & Ors. (2003 (98) FLR 131), wherein the Hon'ble High Court has observed as follows:

"5. This Court in the case of *Union of India and others v. Smt. Manju Nigam*, under exactly similar circumstances, while relying upon the judgment of the Apex Court in the case of *Balbir Kaur v. Steel Authority of India*, has held that the retiral benefits received by the family cannot be taken into account for the purpose of denying the appointment on compassionate grounds.

6. In the present case, as has come on record, the deceased employee had two unmarried daughters at the time of his death and no other member of the family been in employment anywhere. It was only after the death of the concerned employee, one of the daughters was married and the other daughter is still unmarried. The petitioner is only son and is also unemployed. The major

*Manju Nigam*

amount of terminal benefits has been 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. It is not known as to how the respondent department has assessed the annual income worth Rs.18,000/- from 3 & ½ Bighas of agricultural land possessed by the family of the deceased. Since the retiral benefits received by the family cannot be taken into account for the purpose of denying the appointment on compassionate grounds; the application of the petitioner having been rejected mainly on the ground of family having received the retiral benefits; in the facts and circumstances of the present case, we find it a fit case for appointment of the petitioner on compassionate grounds. The judgments cited by learned counsel for the respondents are not applicable in the facts and circumstances of the present case."

6. The Learned Counsel further stated that the family of the deceased employee included three married sons who are living separately with their own family. Other three married daughters of the deceased are also living separately with their family. The applicant has to support not only his family, but also the widow of the deceased and has no sufficient source of income to lead a decent life. It was stated that the assets may be worth Rs.45,000/- as certified by the Tahsildar, but the income was not sufficient for the widow of the deceased and the applicant. He, therefore, urged that the respondents be directed to re-consider the case of the applicant for compassionate appointment particularly in the light of the order of the Hon'ble High Court of Judicature for Rajasthan dt. 13.5.2002.

7. We have heard the Learned Counsel for both the parties and have perused the material filed on record.

8. The initial order of rejection of compassionate appointment dt. 7.8.2001 (Annexure - A-1) was very cryptic and did not disclose any reasons for rejection of the applicant's claim. This



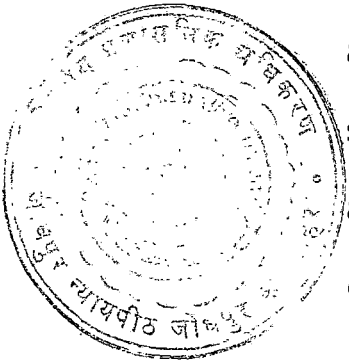
*Handwritten signature*

Tribunal in OA No.306/2001 by order dt. 2.11.2001, dismissed the O.A. observing that family of the applicant consisted of himself, his wife and children. Merely because he was married with children, it was considered that the applicant could not be a dependent on the deceased employee. However, this order of the Tribunal has been quashed and set aside by the Judgment dt. 13.5.2002 (Annexure - A-7), wherein the Hon'ble High Court of Judicature for Rajasthan has held that "whether a person is dependent on his father or not cannot be decided solely on the basis of his marital status particularly in the rural areas". The Respondents, in their reply have contested the claim of the applicant on the ground that the applicant could not be said to be an "indigent, in view of the benefits received by the family of the deceased". It is also stated that the haisiyat of Rs.45,000/- has been certified by the Tahsildar and the applicant has also shown an yearly income of Rs.20,000/-. Therefore, the financial position of the applicant, is such that he does not require compassionate appointment. We find that the arguments raised on behalf of the Respondents in their reply cannot be said to be valid in view of the decision in the case of Suresh Kumar Sharma (supra), as well as, the Judgment of the Hon'ble High Court of Judicature for Rajasthan dt. 13.5.2002 in the applicant's own case. It is undisputed that the applicant was eligible for being appointed on compassionate grounds after the death of his father. The mere fact that he was married should not dis-entitle him for the consideration of appointment on compassionate grounds. He should also not be refused



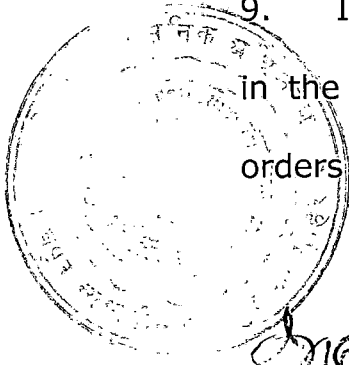
23/7/2001

compassionate appointment because there is some other income and the haisiyat of the family was of Rs.45,000/-. As a matter of fact, it has to be seen that whether the applicant along with his mother needed any financial help on the death of the employee who was the sole bread winner for his dependent members of the family. On the facts of this case, we are of the view that respondents should re-consider the claim of the applicant in the light of the observations made above. The income of Rs.20,000/- even if it is so acceptable, is not considered by us to be adequate for leading a normal life of the applicant and his mother. The fact that there were other sons and daughters is also not relevant as they are no longer supporting the widow of the deceased employee and the applicant both of whom were dependent on the deceased employee at the time of his death. Accordingly, the impugned order dt. 23.8.2002 (Annexure A-1A) is quashed and set aside. The Competent Authority of the Respondents are directed to re-consider the case of the applicant for compassionate appointment. In case the post for which the applicant is seeking compassionate appointment cannot be made available to the applicant for any reason whatsoever, he could be considered for any other post to which he is eligible and willing.



*Handwritten signature*

9. In view of the reasons mentioned and observations made in the preceding paragraphs, this O.A. is allowed without any orders as to costs.



*(Signature)*

(J.K.KAUSHIK)  
JUDICIAL MEMBER

*(Signature)*

(R.K.UPADHYAYA)  
ADMINISTRATIVE MEMBER

B.

Part II and III destroyed  
in my presence on 24-3-09  
under the supervision of  
section officer ( ) as per  
order dated 19/2/09

Section officer (Record)

19/2/09  
2/2/09

19/2/09  
2/2/09