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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR

Original Application No. 12/2002.

Sushil Swami S/o Late Shri Bhagirath Swami aged about 25 years Resident of C/o Suraj Mal Sharma, near Nat Onal English School, Old Line, Gangashahar, Dist. Bikaner.

: Applicant

-verses-

1. The Union of India through the Secretary Department of Posta, Dak Bhawan New Delhi.
2. The Chief Post Master General, Department of Posts, Sardar Patel Marg 'C' Scheme Jaipur, Rajasthan.
3. The Superintendent of Post Office, Bikaner Division, Bikaner.

: Respondents.

Mr. Manoj Bhandari : Counsel for the applicant

Mr. Vinit Mathur : Counsel for the respondents

CORAM : The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
The Hon'ble Mr. Gopal Singh, Administrative Member.

Date of the order : 16.9.2002

Per Mr. Justice G.L. Gupta

ORDER

Applicant Sushil Swami is the son of a Postal Employee, late Shri Bhagirath Swami, who died while in service on 11.10.2000. It is averred that the mother of the applicant made an application

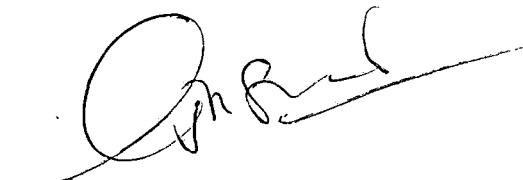


to the respondents on 21.11.2000 to provide employment to the applicant on compassionate grounds but the same has been rejected by the respondent No. 3 vide communication dated 28.9.2001 (Annex. A.1)

It is stated that the applicant's elder brother is in private employment and is living in Jaipur along with his family. It is further stated that the applicant is a graduate and deserves compassionate appointment. It is stated that though the respondents had enquired from the applicant about the immovable property to which reply was sent vide communication dated 20.3.2001 (Annex. A.6) yet the respondents have not considered the case for the applicant in the right spirit.

It is prayed that the respondents be directed to provide employment to the applicant on any available post on compassionate grounds.

2. In the reply and in the additional reply respondents' stand is that the family has got a sum of Rs.2,97, 377/- as terminal benefits and the widow is getting Rs.2563 + dearness relief as family pension and therefore the family is not in financial crisis. It is further stated that for compassionate employment only 5% vacancies under direct recruitment quota are available but there is no vacancy at present. It is further stated that in view of various judgements of the Hon'ble Supreme Court the applicant is not entitled to appointment on



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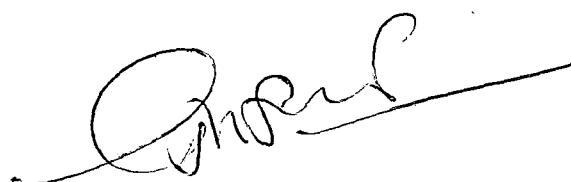
compassionate grounds.

3. Rejoinder has been filed by the applicant.

It is stated that the rejection of the case of the applicant vide Annex. R.1 is arbitrary and unreasonable.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. Mr. Bhandari, learned counsel for the applicant pointing out that the respondents have considered the application of the applicant only for the post of Postal Assistant, urged that if no vacancy is available in that cadre, the applicant may be provided employment on other post. His further contention was that the application for compassionate appointment to the applicant was considered in the meeting held on 17.1.2001, whereas at that the respondents had not collected the entire material. He pointed out that the applicant was served with a letter on 9.3.2001 for submitting information regarding his residential house and he sent the reply along with the certificate issued by the Tahsildar on 20.3.2001 and obviously the same could not be considered by the committee in the meeting held in January 2001. He urged that the retiral benefits and the family pension should not have been taken into consideration for deciding the question of appointment on compassionate grounds. He relied on the case of Balbir Kaur



and another vs. Steel Authority of India Ltd. and others
([2000] 6 SCC 493).

6. On the other hand, Mr. Mathur, counsel for the respondents contended that if there is no vacancy available under 5% quota the respondents cannot be compelled to give employment to the applicant on compassionate grounds. His further contention was that the elder son of the deceased is in employment and looking to the amount received by the mother of the applicant as terminal benefits it could not be found that the family is in financial distress. He has cited the case of Jasvir vs. Union of India
(O.A. No. 134/2001) decided by Jaipur Bench on 4.10.2001)

7. We have given the matter our thoughtful consideration. There cannot be any quarrel with this legal position that the object of the compassionate appointment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread earner which left the family in penury and without any means of livelihood.

8. It is admitted that the respondents had considered the application of the mother of the applicant for appointment on compassionate grounds to the applicant in the meeting held on 17.1.2001. It is evident from the correspondences filed by the applicant that in March 2001 the applicant was asked to furnish



some information for consideration of his candidature.

He sent the information along with the Tahsildar's certificate on 20.3.2001. It is obvious from the certificate that the applicant does not own residential house and he is residing in a rented house. Evidently this aspect of the matter was not considered in the meeting held on 17.1.2001.

9. It may be that there is no post of Postal Assistant available but the applicant's request is that he may be considered for appointment in any post available in the Department. Moreover it is provided in the OM No. 14014/6/94 -Estt. (D) dated 9.10.98, issued by the Department of Personnel and Training at para 7(e) that Employment under the Scheme is not confined to the Ministry/Department/Office in which the deceased Government servant had been working and such appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment. It is provided at para 7 (f) that if sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Ministries/Departments/Offices of the Government of India to take up the matter with the other Offices/Department/Ministries of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list



10. AS already stated the competent authority had no occasion to consider all the facts collected by the Superintendent of Post Offices, as important information had not reached by the date the meeting was held. It is also now the case of the applicant that he is ready to accept appointment on any post. Therefore it has become necessary to give directions to the respondents to consider the case of the applicant afresh.

11. Consequently, we direct the respondents to re-consider the case of the applicant for compassionate appointment within a period of 3 months from the date of communication of this order. Needless to say, the respondent authorities, while considering the case of the applicant afresh will keep in mind the legal position stated by the Supreme Court re-produced in the O.M. dated 9.10.98. O.A stands disposed of as above.

12. No order as to costs.

Gopal Singh
(Gopal Singh)
Administrative Member

G.L. Gupta
(G.L. Gupta)
Vice Chairman

jsv.