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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO.: 53/2005
WITH
MISC. APPLICATION NO. 27/2005

Date of Order: 08.09.2005

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

Bharat Kumar son of late Shri Mangi Lal Purohit,
aged 27 years, resident of Ward No. 20,
Post Bhadra, District Hanumangarh.

....Applicant.

Mr. M. Rajpurohit, counsel for the applicant.

VERSUS

1. Union of India through Secretary,
M.O. Communication, Department of Post,
Dak Bhawan, Sansad Marg, New Delhi.
2. Assistant Post Master General (S&V)
for Chief Post Master General,
Rajasthan Circle, Jaipur.
3. Superintendent, Post Office, Hanumangarh.

...Respondents.

Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for the respondents.



ORDER

Shri Bharat Kumar has assailed the validity of order dated 10.02.2003 (Annexure A/3) and has sought for setting aside the same with a direction to the respondents to provide appointment in favour of the applicant on compassionate ground.

2. With the consent of learned counsel for both the parties, the case was heard for final disposal at the stage of admission, keeping in view of the urgency in the matter. I have, accordingly, heard the arguments advanced at the bar and also

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have carefully perused the records of this case.

3. The factual background of this case indicates that the applicant is the son of late Shri Mangi Lal, Postal Assistant. Shri Mangi Lal expired on 12.2.2002 while in service and was survived with his wife, three sons and three daughters. The applicant possesses the requisite qualification and fulfills other eligibility conditions for appointment to the post of Postal Assistant. The matter was taken up with the respondents for considering his case for appointment on compassionate ground but the claim came to be rejected on 10.2.2003 on the grounds that the family is getting pension amounting to Rs. 2350/- plus Dearness Relief per month, terminal benefits were paid to the tune of Rs. 3,49,456/-, there is landed property fetching an income of Rs. 18,000/- per month and the family have its own house. Therefore, the family was not found in indigent condition and claim came to be rejected. The notice for demand of justice came to be served on respondents and to which also no response was the result. The Original Application has been filed on numerous grounds mentioned in para 5 and its sub-paras of the Original Application.



4. The respondents have contested the case and have filed the reply to the Original Application. It has been averred that the case of the applicant was put up to Circle Relaxation Committee as per the scheme in vogue and he was not found within the ambit of most indigent candidates in comparison to the other cases considered along with him. There is no

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allegation of any mala fide and biasness against the respondents. The grounds raised in the Original Application have been generally denied. No rejoinder has been filed to the reply.

5. A separate Misc. Application has been filed for condonation of the delay. It has been mentioned that the delay in filing the Original Application has been occurred due to the poor financial condition of the applicant. It has also been mentioned that the applicant did not have the knowledge of period of limitation being a layman. The delay has occurred inadvertently and unintentionally. The deceased Government servant was survived with a large number of family members. The same has been replied by the respondents and it has been stated that no documents in support of the contentions of the applicant has been filed and there are no good and sufficient reasons for condoning the delay.



6. Both the learned counsel for the parties have reiterated the facts and grounds mentioned in their respective pleadings, as noticed above. As far as the factual aspect of the matter is concerned, there is hardly any dispute and admittedly the case of the applicant was considered by the Circle Relaxation Committee on 21st Jan., 2003. However, subsequent to that case of the applicant has not been considered.

7. Before advertng to the facts, I would like to clear the peripheral issue of the limitation. This is a matter of _____

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compassionate appointment and even the respondents are still required to consider the matter again for two more years as per rules in force. Keeping in view the facts and circumstances of this case and the reasons adduced for condonation of the delay, I find it expedient that there are good and sufficient grounds for condoning the delay. I find support from the verdict of the Apex Court in case of **Collector, Land Acquisition, Anantnag v. Mst. Katiji AIR 1987 page 1353** wherein their Lordships of Supreme Court have provided a beacon light for condoning the delay illustrating the principle of law for condonation of delay. Therefore, the delay is condoned and the M.A. stands accepted, accordingly.



8. Now advertent to the merits, I have considered the rival submissions put forth on behalf of both the parties. While it is true that case of the applicant was considered in January 2003 by the Circle Relaxation Committee and as per the comparative assessment the applicant was not found indigent enough to be recommended for compassionate appointment, there has been subsequent development inasmuch as another O.M. has been issued, though subsequently, on 05.05.2003, wherein the cases for compassionate appointment are required to be considered for three consecutive years. I take the judicial notice of one of the recent cases of **Smt. Antar Kanwar Vs. The Union of India and Ors** (Original Application No. 180 of 2004) decided on 21st day of July, 2005 where I was the party to the order and a detailed discussion has been made regarding providing of three chances. The contents of the same may be read as part

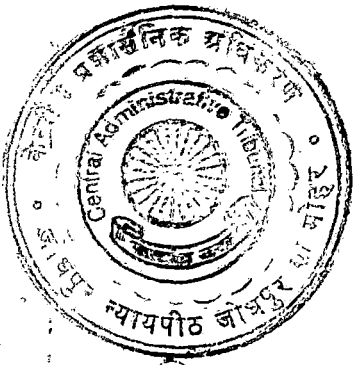
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of this order and for that purpose, a copy of the order in that case is directed to be placed on records of this case. In this view of the matter, I do not find any necessity of fresh discussion in this order; rather I unhesitantly follow the same decision and apply to the facts of this case.

9. It would be pertinent to mention here that the learned counsel for the applicant emphasised on the point that the claim of the compassionate appointment cannot be rejected by taking into consideration the terminal benefits and for this purpose, he has referred to the judgment of the Apex Court in case of **Balbir Kaur and Another vs. Steel Authority of India Ltd. And Ors.** reported in (2000) 6 SCC 493. There has been further development in the law and the Apex Court in a subsequent decision in case of **Punjab National Bank and Ors. vs. Ashwini Kumar Taneja** reported in 2005 (1) SLJ SC 30 wherein their Lordships have held that retiral benefit is valid consideration for compassionate appointment and the compassionate appointment is not a right. In this view of the position, I am unable to concur the submissions of the learned counsel for the applicant that the terminal benefits should not have been taken into account while rejecting the claim of the applicant.



10. In the premises, the Original Application deserves acceptance and the same stands allowed, accordingly. The impugned order dated 10.2.2003 at annexure A/3 stands quashed. The respondents are directed to consider the case of _____

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the applicant for appointment on compassionate grounds against the vacancies for two more subsequent years as prescribed under Office Memorandum dated 05.05.2003 ibid.

No costs.



NLK


(J K KAUSHIK)
JUDICIAL MEMBER

AI Conf
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Cofy received
Jaspreet C. Arora
26/9/15
For Mukesh Raj Purohit
(Arora)