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

Original Application No. 55/2007

Date of order: 16.08.2007

CORAM:

HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER.

Sh. Kishore Kumar S/o Late Shri Narendra Kumar Patidar, aged 20 years, R/o Village-Asoda, Tehsil-Garhi, District-Banswara.

(Dependent son of Ex-Group 'D' employee Shri Narendra Kumar, Department of Posts India, Dungarpur).

...Applicant.

Mr. S.P. Sharma, counsel for applicant.

VERSUS:

1. Union of India through the Secretary, Department of Post & Telegraph, Ministry of Communication, Govt. of India, Dak Bhawan, New Delhi.
2. The Post Master General (West) Region, Ajmer.
3. The Senior Superintendent of Post Offices, Dungarpur Division, Dungarpur - 314001.

...Respondents.

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

ORDER

The applicant, Shri Kishore Kumar has filed this Original Application No. 55/2007 and has requested the following relief: -

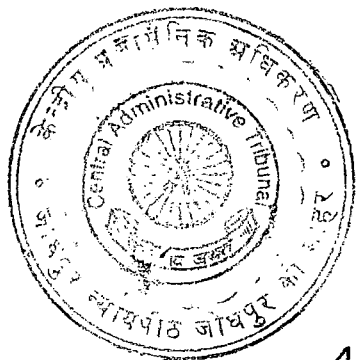
- (i) The impugned order dated 24.01.2007 (Annexure-A/1), passed by the respondent no. 3, may kindly be declared unsustainable and accordingly the same may kindly be quashed and set aside.
- (ii) The respondents may very kindly be directed to immediately provide regular appointment to the applicant, to the post of Group-D, on compassionate grounds, in place of the his father late Shri Narendra Kumar Patidar, who passed away on 11.11.2005, while in service."

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2. Late Shri Narendra Kumar Patidar was working in the Department of Posts and Telegraph and died on 11.11.2005 after serving the department for 25 years as a Mail Peon. The applicant's mother Smt. Mogi Patidar, being the legally wedded wife of Shri Narendra Kumar Patidar, submitted an application dated 17.11.2005 (Annexure A/3) to the respondent No. 3 requesting for appointment of her only son on compassionate basis. The applicant is 9th pass and is eligible for appointment on the class IV post.

3. The applicant's mother received a sum of Rs. 2,72,740/- towards terminal benefits. The applicant is having responsibility of his mother, wife and small child. The family has Three Bigha and One Biswa of agriculture land and mother of the applicant is getting a meager family pension amounting to Rs. 2843 + DR per month, which is not enough for survival of the family. The applicant's father had obtained loan of Rs. 75,000/- on 09.04.2005 and another loan of Rs. 50,000/- on 22.05.2005, receipt of which are enclosed as Annexure A/13 and A/14. The part of the loan was repaid by the applicant from the service benefits of his late father, received by his mother. The family is having serious financial crisis.



4. The respondent No. 3 directed vide letter dated 29.11.2005 (Annexure A/4) to the applicant for submitting necessary documents relating to educational qualifications and other relevant documents necessary for appointment. The applicant submitted all the necessary documents to respondent No. 3

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vide his letter dated 27.12.2005 (Annexure A/5). After submitting his documents, the applicant has been pursuing his case with the respondents from time to time.

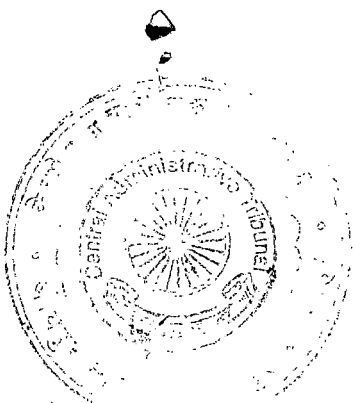
5. The request of the applicant has not been agreed to by the competent authority as intimated by the Superintendent of Post Offices, Dungarpur Division Dungarpur vide impugned order No. B2/NKP/Comp/App/05 dated 24.01.2007 (Annexure A/1).

6. Aggrieved by the above orders, the applicant filed this Original Application and asked for the relief as given in para one above.

7. On the contrary, the respondents have filed a detailed reply to the O.A. and has not agreed to the relief as asked for by the applicant. The respondents have explained that Shri Narendra Kumar died on 11.11.2005 leaving behind one son and his widow. After the death of the Government employee, terminal benefits amounting to Rs. 2,72,740/- have been paid to the mother of the applicant and a family pension of Rs. 2843 + DA per month is also being paid. The family has its own house to live in and has agriculture land of 0.51 Hectare and is getting an income of Rs. 12000/- per annum as per certificate issued by the Tehsildar Garhi (Banswara) as produced by the applicant placed at Annexure R/1.

8. The request of the applicant has been considered by the competent authority in accordance with the policy on the subject and notification issued by the Government of India on the subject. The request has been rejected as the case of the

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applicant was not found indigent in comparison to the other cases which were considered along with the case of the applicant and the applicant was accordingly informed about the rejection of the case vide letter dated 24.01.2007.

9. The respondents have explained that the applicant is 8th pass and not 9th pass. The family is getting family pension of Rs. 2843 + DA per month which is more than the pay and allowances of Group 'D' initially appointed in the Government service. The family has no liability of marriage of daughter and education of minor children. The applicant is 30 years old and can easily assist to the widow by doing some private job. The committee after making comparative and objective assessment of the financial condition of the family, did not find the family in indigent condition, therefore, his case has been rejected.

10. The respondents have explained that they are not aware of taking any loan by the deceased Government servant from the borrowers as he had not intimated to his employer as is required to be done as per the CCS (Conduct) Rules, 1964. Therefore, the genuineness of the receipts for obtaining loan as produced by the applicant vide Annexure A/13 and A/14 are not tenable. The respondents have explained that the action of the respondents in rejecting the case of the applicant is quite just and reasonable and the applicant is not entitled to get any relief from this Tribunal and his Original Application deserves to be dismissed being devoid of merit.

11. Learned counsel for both the parties have been heard.

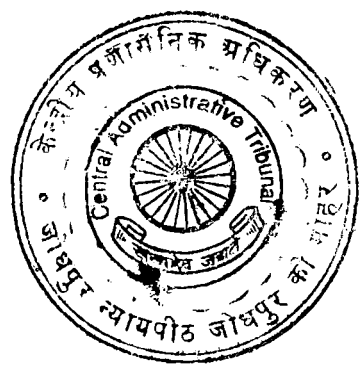


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Learned counsel for the applicant reiterated all the arguments given in his Original Application and requested that the respondents have not furnished detailed speaking order and therefore this Tribunal may like to pass orders for giving compassionate appointment to the applicant.

12.Learned counsel for the respondents explained that the case of the applicant has been considered along with the other candidates and the condition of the family has not been found indigent and therefore his case has been rejected. His case has been considered in accordance with the policy on the subject. This Tribunal cannot interfere in the orders issued by the competent authority as no mala fides or arbitrariness or lacuna has been alleged by the applicant. Therefore, the Original Application filed by the applicant may be dismissed.

13.This case has been carefully considered and documents perused. It is seen from the impugned order dated 24.01.2007 (Annexure A/1) issued by the Superintendent of Post Offices, Dungarpur Division, Dungarpur that the same is not a detailed speaking order. It has not been indicated as to how many total vacancies were there for direct recruitment and how many have been filled on the basis of compassionate appointment basis. The number of candidates who were considered and the number of candidates appointed on the compassionate basis have not been indicated. The marks obtained by the candidates who have been appointed vis-a-vis the marks obtained by the applicant have not been indicated. The comparative indigent conditions of the candidates who



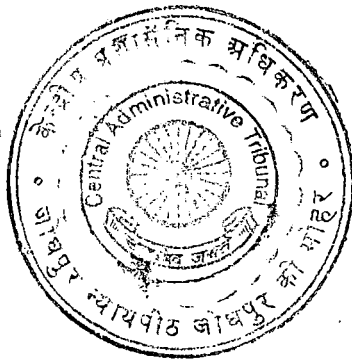
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were considered for compassionate appointment have not been indicated. It is also not clear from the impugned order as to how many times the case of the applicant has been considered by the competent authority.

14. In view of the above discussion, the respondent-department may re-consider the applicant's request for compassionate appointment and if he is found otherwise suitable, the applicant could be offered compassionate appointment depending upon the vacancy position and the rules and regulations to fill up such vacancies.

15. The Original Application is allowed. No order as to costs.



Tarsem Lal
[Tarsem Lal]
Administrative Member

nlk

~~PSM~~
21/8/07
for S. P. Sharma

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