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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 8/2007 &
M.A.NO. 4/2007 IN OA 8/2007**

JODHPUR: THIS THE 10th DAY OF AUGUST, 2007.

CORAM :

HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER

Anirudh Singh Shaktawat S/o Late Shri Arjun Singh Shaktawat aged 34 years, by caste Rajput, Resident of Village & Post Baggod, Tehsil Vallabh Nagar, District Udaipur ; Last employed at P.O. Kheroda, Udaipur, Ex. GDSBPM, Baggod.

.....Applicant.

By Mr. Sandeep Shah, Advocate, for the applicant.

Versus

1. **Union of India through the Secretary to the Government Ministry of Communication (Department of Post), Sanchar Bhawan, New Delhi.**
2. **Chief Post Master General, Rajasthan, Jaipur.**
3. **Post Master General, Rajasthan, Ajmer.**
4. **Sr. Superintendent of Post Offices, Udaipur Division, Udaipur.**

.....Respondents.

By Mr. Mahendra Singh Godara Adv. brief holder for Mr. Vineet Kumar Mathur, counsel for the respondents.

**ORDER
[BY THE COURT]**

Shri Anirudh Singh Shaktawat has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, and has sought for the following reliefs :

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"The impugned order dated 21.11.2005 (Annex.A/1) should be quashed and the respondents may be directed to consider the case of applicant for compassionate appointment. "

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2. A separate Misc. Application has been moved to condone the delay in filing this OA to which a reply has also been filed by the respondents. But, in view of the facts narrated in the M.A. and the issue involved in the instant case, I think that it would be appropriate to condone the delay in the interest of justice. Ordered accordingly. M.A. is thus accepted and disposed of accordingly.

3. The factual matrix of the case is that the father of the applicant late Shri Arjun Singh Shaktawat, while working as GDSBPM in the respondent - department expired on 11.1.2004 at an age of 63 years. He was going to be superannuated in routine manner on 14.7.2005. The deceased is survived with his mother, widow and two married sons aged 32 and 30 years at the time of his death. The widow requested for compassionate appointment for her elder son.

4. It appears that the application was received by the department and the case was considered by the Circle Selection Committee (CSC) who observed as under :-

"Committee observed that :

1. The Ex GDS expired on 11.01.2004.
2. As per synopsis the Ex-GDS had left widow, Mother and two married sons.
3. The family had received Terminal benefits to the tune of Rs. 48,000/-.
4. In assets, the family has own house to live in.
5. The family has landed property 5.5 Bigha land and is deriving income of therefrom about Rs. 35,000/- PA.

The committee after observing assessment of financial condition of the family did not find the family in indigent condition and hence the case was rejected."



5. The learned counsel for the applicant in his arguments mentioned that the terminal benefits received by the applicant should not be the criteria for considering compassionate appointments. He further mentioned that the terminal benefits were very limited and the applicant's case for compassionate appointment

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must be considered favourably.

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6. In support of his arguments, the learned counsel for the applicant cited the following cases :-

- (1) Govind Prakash Verma Vs. LIC and Ors.
Reported in (2005) 10 SCC 289.
- (2) Naresh Kumar Jhakar Vs. Shekhawati Gramin Bank Sikar & Anr.
Reported in 2006 (6) RDD 3287.
- (3) Suresh Kumar Sharma Vs. UOI & Ors.
Reported in WLC (Raj.) UC 2003 - 317.
- (4) Suresh Meghwal Vs. UOI & Ors.
O.A. No. 169/2006 decided by CAT, Jodhpur on 13.12.2006.

7. In the case of **Govind Prakash Verma Vs. LIC and Ors.**, Hon'ble the Supreme Court has held in para 6 of the judgement as under :-

"6. In our view, it was wholly irrelevant for the departmental authorities and the learned Single Judge to take into consideration the amount which was being paid as family pension to the widow of the deceased (which amount according to the appellant, has now been reduced to half) and other amounts paid on account of terminal benefits under the Rules. The scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of the deceased employee as benefits of service which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the rules.....".



Hon'ble the Rajasthan High Court at Jaipur in **Naresh Kumar Jhakar's** case (supra), has held as under :-

"9. In instant case, there are compassionate appointment Rules (Annexure R.1) that came into force on 08.12.1982 and covers case of the petitioner. In my considered opinion, decision taken by respondents to deny compassionate appointment to him on the premise

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that widow of deceased employee received payment of terminal benefits besides family pension, was totally arbitrary and deserves to be set aside."

In the third case i.e. **Suresh Kumar Sharma Vs. Union of India and Ors.**, it was held as under :-

"6. This Court in the case of Union of India and Others Vs. Smt. Manju Nigam, under exactly similar circumstances, while relying upon the judgement of the Apex Court in the case of Balbir Kaur Vs. Steel Authority of India reported in 2000 SCC (L&S) 767 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".

In **Suresh Meghwal's** case, this Tribunal also has observed that terminal benefits should not be the main criteria. Operative part of the order is quoted below :-

"4. After considering the arguments put forth by the learned counsel for both the parties and in accordance with the judgements of Hon'ble Rajasthan High Court, the terminal benefits should not be the main criteria for deciding for appointment on compassionate grounds. 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."

8. The learned counsel for the respondents on the other hand, strongly argued that the decision taken by the CSC is correct. He brought-out that the CSC has considered all the relevant factors and the terminal benefits are only a part of these factors. He further averred that the applicant at the time of death of his father, was 32 years of age and as on date he is 34 years old and married too. Mr.

Godara further contended that in any case, the sons of the deceased can very well assist the widow and their grand mother to meet with the day to day liabilities. The widow has received sufficient terminal benefit and have a reasonable size of land and a house. He also contended that since both the sons are above 25 years of age and



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none of the family members is less than the maximum age as prescribed, as such, compassionate appointment cannot be granted to the applicant on the premise that he was dependant on the deceased. In support of his arguments, the learned counsel for the respondents quoted the following cases :-

(1) Krishna Kumar Gaur Vs. UOI

Decided by CAT, Jaipur Bench in
O.A. No. 556/2001 on 14.5.2002.

(2) Abdul Jabbar Pathan Vs. UOI & Ors.

Decided by CAT, Jodhpur, on 3.5.2002.

9. The Tribunal in the aforesaid two cases, held that one who is of more than 25 years of age, cannot be said to be a dependant. The learned counsel also cited the orders delivered in **Smt. Kadi and Kheta Ram Vs. UOI** (OA No. 263/2000 decided on 11.10.2001), **Bahwant Singh Vs. UOI** (OA No. 306/2001 decided on 2.11.2001) and **Kishan Lal Vs. UOI** (OA No. 68/2002 decided on 23.4.2002), wherein, it was brought out that married sons are not dependants and are not entitled for compassionate appointment.

10. Lastly, the learned counsel for the respondents has cited two Supreme Court's judgements in the case of **Punjab National Bank & Ors. Vs. Ashwini Kumar Taneja** [(2004) 7 SCC 265]

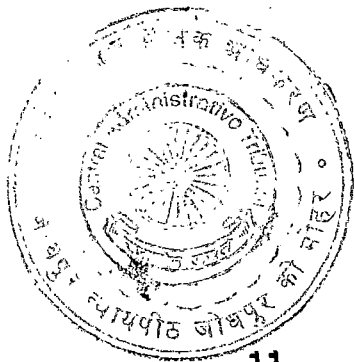
and a recent judgment delivered in **State Bank of India and Anr. Vs. Somvir Singh** [(2007) 4 SCC 778]. These cases bring out that appointment on compassionate ground is an exception carried out to the general rule. The dependants of employees died in harness, do not have any special or additional claim to public services other than the one conferred, if any, by the employer. The relevant paras of the Apex Court's judgement in **SBI & Anr. Vs. Somvir Singh**, are reproduced below :-



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7. Article 16 (1) of the Constitution of India guarantees to all its citizens equality of opportunity in matters relating to employment or appointment to any office under the State. Article 16 (2) protects citizens against discrimination in respect of any employment or office under the State on grounds only of religion, race, caste, sex and descent. It is so well settled and needs no restatement at our end that appointment on compassionate grounds is an exception carved out to the general rule that recruitment to public services is to be made in a transparent and accountable manner providing opportunity to all eligible persons to compete and participate in the selection process. Such appointments are required to be made on the basis of open invitation of applications and merit. Dependants of employees died in harness do not have any special or additional claim to public services other than the one conferred, if any, by the employer.

13. In our considered opinion, the High Court itself could not have undertaken any exercise to decide as to what would be the reasonable income which would be sufficient for the family for its survival and whether it had been left in penury or without any means of livelihood. The only question the High Court could have adverted itself to is whether the decision-making process rejecting the claim of the respondent for compassionate appointment is vitiated? Whether the order is not in conformity with the scheme framed by the appellant Bank? It is not even urged that the order passed by the competent authority is not in accordance with the scheme. It is well settled that the hardship of the dependant does not entitle one to compassionate appointment dehors the scheme or the statutory provisions as the case may be. The income of the family from all sources is required to be taken into consideration according to the scheme which the High Court altogether ignored while remitting the matter for fresh consideration by the appellant Bank. It is not a case where the dependants of the deceased employee are left "without any means of livelihood" and unable to make both ends meet. The High Court ought not to have disturbed the finding and the conclusion arrived at by the appellant Bank that the respondent was not living hand-to-mouth. As observed by this Court in G.M. (D&PB) Vs. Kunti Tiwary the High Court cannot dilute the criterion of penury to one of "not very well-to-do". The view taken by the Division Bench of the High Court may amount to varying the existing scheme framed by the appellant Bank Such a course is impermissible in law."



11.

From the above discussions, it is clear that :-

- (i) Terminal benefits should not be the sole criteria for rejecting the case of compassionate appointment.

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(ii) Compassionate Appointment is not a right. It is rather an exception and the concerned department should grant it as per policies framed by them. The guide-lines given by the Hon'ble Supreme Court are that the only question the Courts could have examined is, whether the decision - making process rejecting the claim for compassionate appointment is vitiated ?

12. We are guided by the Apex Court's judgement. In this particular case, after going through the impugned order and various documents on record, I do not find that the rules have been vitiated at any point of time in the process of considering the applicant's case for compassionate appointment. The impugned order clearly brings out that in addition to the terminal benefits, the department has considered other conditions of the family. The deceased employee died at an age of 63 +, had left widow, his mother and two married sons aged 32 and 30 years at the time of death. In deciding the applicant's case, the concerned department has followed the scheme and rules framed for such appointment. It is not a case where the Tribunal need to intervene. I hardly find any force in the O.A. and the same is dismissed with no orders as to costs.



R.R. Bhandari
(R.R. Bhandari)
Admv. Member

Q/R
12/18/07
(Sandeep Sheel
Arch.)