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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 63/2008

Date of Order : 3.4.2008.

CORAM :
HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

Bajrang Lal S/o Late Shri Ladhu Ram last working Group 'D' post Office Kalu by Caste Brahman, aged 26 years, resident of Garabdasar Post Kalu District Bikaner.

....Applicant.

By Mr. H.S. Shrimali, Advocate, counsel for applicant.

Versus

1. Union of India through Secretary, Ministry of Communication, Post and Telegraph Department, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Post Master General Rajasthan, Western Region, Jodhpur.
4. Superintendent of Post Office, Bikaner.

....Respondents.

**ORDER [ORAL]
[PER M.L.CHAUHAN]**

The applicant is the son of late Shri Ladhu Ram, who died on 30.1.2005 while working on the post of Chowkidar. By way of this O.A., applicant has challenged the order dated 8.1.2007 (Annex.A/1) whereby, he was informed that his case for appointment on compassionate grounds has been rejected by the Circle Selection Committee (CSC) on the ground that the family is not in indigent condition. It is this order which is under challenge in this O.A.

2. Few facts which are relevant for the decision in this case are that the family of the deceased consists of Widow, one son and seven married daughters. After the death of the father of the applicant, he moved an application for compassionate appointment on the prescribed proforma. The matter was considered by the C.S.C. in its

meeting held on 27.12.2006 which made the following observations : 316

1. "The ex-official expired on 30.1.2005.
2. As per synopsis, the ex-employee had left widow, one married son and seven married daughters.
3. As per educational qualification, the applicant was eligible for appointment on compassionate grounds on the post of Gr. 'D'
4. The family is getting family pension amounting to Rs. 2310 + D.R. P.M.
5. The family had received terminal benefits to the tune of Rs. 1,69,687/-.
6. In assets, the family has own house to live in.
7. The family has landed property 54 Bighas and Rs. ___ income P.A. There is income of Rs. 12,000/- P.A. from all sources.
8. There is one/two earning member in the family.

The Committee considered the case in the light of instructions issued by DOP&T OM dated 9.10.1998 followed by clarifications issued vide OM dated 3.12.99, 20.12.99, 28.12.99 and 24.11.2000 and vacancy position of the cadre.

The Committee, after objective assessment of financial condition of the family did not find the family in indigent condition and hence the case was rejected.

The applicant may please be informed accordingly."

3. As already stated above, the observation of the Committee was conveyed to the applicant vide letter dated 8.11.2007 (Annex.A/1). The said order has been challenged by the applicant on the ground that the decision arrived at by the respondents, is illegal, unjustified and arbitrary as the family is in indigent condition and terminal benefits given to the applicant have been spent towards the loan and debts taken by the deceased employee from the relatives and neighbours and the amount of pension is not sufficient in order to maintain the family. The further ground taken by the applicant is that the retiral benefits should not have been taken into consideration while considering the case of the applicant for compassionate appointment.

4. I have heard the learned counsel for the applicant at admission stage. I am of the view that the applicant is not entitled to any relief.

5. From the facts, as stated above, it is clear that the family consists of only a widow and the applicant, whereas, the five

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daughters of the deceased are married and as such, they cannot be said to be depended on the deceased. It is her husband with whom she is residing on whom she is dependant and not on her father or mother. Thus, for all intend and purposes, it was the widow and a son who was dependents of the deceased. From the material placed on record, it is evident that the family is getting Family Pension amounting Rs. 2310/- + DR per month. The family also received terminal benefits amounting to Rs. 169,687/- The family has a own house to live in. Not only this, the family has a landed property of 54 Bighas on which the family is deriving income of Rs. 12000/- per month. The applicant has not disputed these facts except making a vague statement that the terminal benefits received by the family has been spent on the loans and debts taken from the relatives and neighbours. Admittedly, the applicant is major and can contribute to the income of the family. As per para 16-C of the Scheme for compassionate appointment as circulated vide DOP&T O.M. dated 9.10.1998 while considering request for appointment on compassionate appointments, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family etc. The respondents has taken into consideration all these facts while considering the case of the applicant, as such, it cannot be said that the case of the applicant has not been examined properly and also that it is a case of such nature where interference in the matter is required.

6. The contention raised by the learned counsel for the applicant that the retiral benefits cannot be taken into consideration while considering the case for compassionate appointment is wholly

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misconceived in view of the provisions contained in para 16(C) of the Scheme for granting compassionate appointment as circulated vide letter dated 9.10.1998 and also in view of the law laid down by the Apex Court in the case of *Punjab National Bank and Ors. Vs. Ashwini Kumar Taneja* reported in 2005 (1) SLJ 30, whereby the Apex Court has held that retiral benefit is a valid consideration for compassionate appointment. Further, the Apex Court in number of decisions has ruled that in public service appointment should be made strictly on the basis of open invitation of applications and on merits. At this stage, it will be useful to quote Para 14 of the judgement rendered by the Apex Court in the case of *State of J&K and Ors. Vs. Sajad Ahmed MIR* ([2006 SCC (L&S)1195] which thus reads :-

"14. In *Umesh Kumar Nagpal v. State of Haryana* [(1994) SCC (L&S) 930] it was ruled that public service appointment should be made strictly on the basis of open invitation of applications and on merits. The appointment on compassionate ground cannot be a source of recruitment. It is merely an exception to the requirement of law keeping in view the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases, the object is to enable the family to get over sudden financial crisis. Such appointments on compassionate ground, therefore, have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased. This favourable treatment to the dependant of the deceased employee must have clear nexus with the object sought to be achieved thereby i.e. relief against destitution. At the same time, however, it should not be forgotten that as against the destitute family of the deceased, there are millions and millions of other families which are equally, if not more, destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectation, and the change in the status and affairs of the family engendered by the erstwhile employment, which are suddenly upturned."

Further, the Apex Court in para 12 and 13 of it aforesaid case, held as under :

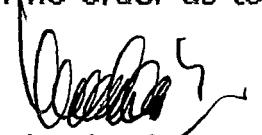
"12. In *State of Haryana v. Rani Devi* it was held that the claim of the applicant for appointment on compassionate ground is based on the premise that he was dependent on the deceased employee. Strictly this claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution. However, such claim is considered reasonable as also allowable on the basis of sudden crisis occurring in the family of the employee who had served the State and died while in service. That is why it is necessary for the authorities to frame rules, regulations or to issue such administrative instructions which can stand the test of Articles 14 and 16. Appointment on compassionate ground cannot be claimed as a matter of right.

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13. In *LIC of India v. Asha Ramchhandra Ambekar* it was indicated that the High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds when the regulations framed in respect thereof do not cover and contemplate such appointments."

7. Thus, viewing the matter on the basis of the law laid down by the Apex Court and the fact that the family consists of only a widow and one major son i.e. the applicant, who can contribute to the income of the family and also that beside family pension, the family is having a substantial agricultural land from which benefit can be derived, it is not a case of such nature where it can be said that the condition of the family is indigent which require immediate assistance. Thus, the decision taken by the competent authority cannot be faulted.

8. For the foregoing reasons, the present O.A. is bereft of merit which is accordingly dismissed at admission stage with no order as to costs.


(M.L.Chauhan)
Judi. Member

Recd copy

H.M.A.

11-4-08

Part II and III destroyed
in my presence on 15/12/2014
under the supervision of
Section Officer () as per
order dated 19/8/2014

Section Officer (Records)