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

Original Application No. 73/2008

Date of order: 23.04.2008

**HON'BLE MR. JUSTICE A.K. YOG, JUDICIAL MEMBER.
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER.**

Roshan Lal Jeengar S/o Late Sh. Gulab Chand Jeengar, aged 22 years, R/o Sisodiya Boot and Mojadi House, Sadar Bazar, Chittorgarh (Raj.). His father was working as Tar Messenger, under Respondent No. 5.

...Applicant.

Shri Vinod Purohit, Shri Sanjeet Purohit,
Shri Anish Ahmed, Shri Gajendra Sharma &
Shri Hemant Ballani, Advocates : counsel for applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhwan, New Delhi.
2. The Director General (Post and Telegraph), Dak Bhawan, Sansad Marg, New Delhi.
3. The Chief Post Master General, Rajasthan Circle, Jaipur (Raj.).
4. The Superintendent of Post Office, Chittorgarh Division, Chittorgarh.
5. The Post Master, Post Office, Nimbeda, Distt. Chittorgarh.

...Respondents.



ORDER

Per Mr. Justice A.K. Yog, Member (J)

Heard Shri Gajendra Sharma, Advocate, learned counsel appearing on behalf of the applicant for admission and perused the pleadings contained in Original Application.

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The applicant / Roshan Lal Jeengar contends that he is adopted son of one Late Shri Gulab Chand Jeengar who died on 09.11.1994 in harness while serving as 'Tar Messenger' in the Postal Department at Post Office Nimbaheda, District Chittorgarh.

It is contended that said Gulab Chand Jeengar divorced his first wife Prem Devi vide Divorced Decree dated 26.04.1986. He lived with another lady (by the name of Gomti Devi) as per 'local custom' but she also left Gulab Chand Jeengar after couple of days.

According to the applicant, in 1993 he was adopted by the deceased employee Gulab Chand Jeengar just one year before his death.



Annexure A/3 to the O.A. shows that Smt. Gatt W/o Shri Jugraj Mochi (as Natural Mother of Roshan Lal) and Roshan Lal / the applicant, being minor - through his Natural father Jug Raj Mochi, filed Succession Case No. 36/1994 claiming Insurance Amount, General Provident Fund Amount, Combined Group Insurance amount, amount of gratuity and amount of family pension etc. The Additional District & Sessions Judge, No. 1, Chittorgarh, without recording a finding with respect to validity of adoption of Roshan Lal by Gulab Chand Jeengar, directed for payment of amounts in question to the natural father Jugraj S/o Jai Ram Mochi vide judgment and order dated 28.08.2008.

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Interestingly, none of the family members of deceased employee Gulab Chand (viz. - his father and mother - i.e. grand father / mother of allegedly adopted son Roshan Lal) were impleaded in this case.

According to the applicant, he approached this Tribunal by filing O.A. No. 113/2006 (Roshan Lal vs. U.O.I. & Others) which was dismissed as withdrawn with liberty to file fresh Original Application vide order dated 25.05.2007.

The present O.A. has been presented on 04.12.2007 i.e. after 5½ months of withdrawal of above O.A. No. 113/2006. There is no just and valid explanation to justify this delay, if Roshan Lal was in 'distress' - the touch stone of seeking compassionate appointment. Where compassionate appointment is sought, one does not expect the claimant to wait and approach at fag end of 'limitation' period. There is no explanation as to why this present O.A. was not filed promptly if applicant and his alleged adoptive family (Dada/Dadi) were in distress requiring immediate mitigation which is the essence of making compassionate appointment. Application seeking compassionate appointment is dated 03.12.2004 / annexure A-4 to the O.A. In this application dated 03.12.2004, the applicant has shown his date of birth 28.06.1985. The applicant, as per said date of birth attained majority on 27.06.2003. There is no explanation as to why application for appointment on compassionate ground was filed after about 1½ years of



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attaining majority.

The annexures filed along with O.A. shows that department held an inquiry and collected facts as are shown in Annexure A/10 (particular page 35 and 36 of O.A.). Roshan Lal, the Applicant has not disclosed name of his grand father / grand mother and there is no clear indication of the 'grand-parents' belonging to the 'adoptive family' or 'natural family'. As noted earlier, 'grand father'/grand mother' were not impleaded in 'Succession Case' - referred to above. The document on record of O.A. (particular page 35) shows that applicant has studied upto class 9th which shows that the applicant has managed to receive education also and it cannot be said that the applicant has been in distress to warrant compassionate appointment.



It is also interesting to note that document filed along with Annexure A/10 to the O.A. (particular page 36) shows that he is still continuing with his natural parents.

Adoption deed has not been filed before the Department as demanded vide Department letter dated 21.07.2005 / Annexure A-13 (P-42 of O.A. compilation).

According to the impugned order dated 24.01.2007 / Annexure A-1 to the O.A., the concerned 'competent committee' considered the case of the Applicant, and after objective assessment came to the conclusion that the Applicant was not

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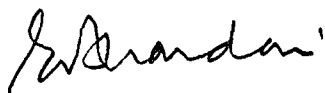
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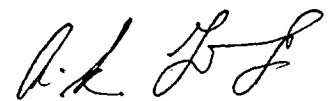
eligible for it since the financial condition of the family of said deceased employee / Gulab Chand Jeengar was not 'indigent'. The objective assessment, contained in the impugned order dated 24.01.2007 / Annexure A-1, does not warrant interference now at this stage. The deceased employee died in the year 1994. We are in the mid of year 2008, there is no justification for offering compassionate appointment at this stage. The applicant has miserably failed to make a case to claim 'compassionate appointment'. No case is made out for interfering with the impugned order.



Learned counsel for the applicant has referred to several decisions of the Apex Court and High Courts. Needless to refer to them since each case (relating to claim of compassionate appointment) is to be decided on its own facts. 'Citations' are distinguishable on facts.

Original Application No. 73/2008 stands dismissed. No order as to costs.


[R.R. Bhandari]
Member (A)


[A.K. Yog]
Member (J)