

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
O.A. 1341 OF 1997

Present : Hon'ble Mr. D. Purakayastha, Judicial Member
Hon'ble Mr. S. K. Ghosal, Administrative Member

1. Narayan Bhattacharya,
S/o Late Satyandran Bhattacharya,
Vill. Basnsabati P.S. Suti
Dist. Murshidabad
Present : P.O. & P.S. Nalhati,
Dist. Birbhum.
2. Smt. Dipali Bhattacharya,
W/o Late Satyandranath Bhattacharya,

VS

1. The Union of India through the
Secretary, Deptt. of post,
Dak Bhavan, New Delhi
2. The Chief Post Master General,
West Bengal Circle,
Yogayog Bhawan,
Calcutta-700 012
3. The Post Master General,
West Bengal Circle, Yogayog Bhawan,
Calcutta-700 012
4. The Superintendent of Post offices,
Birbhum, P.O. Suri, Dist. Birbhum.

.... respondents

For the applicants : Mr. A. Mukherjee, Counsel

For the respondents : Mr. B. Mukherjee, Counsel

Heard on : 23.11.2000 : Order on : 1.12.2000

O R D E R

S.K.Ghosal, A. M.:

The father of the first applicant, while working as a Postman at Nalhati Post Office in the district of Birbhum, died in harness on 1.2.92. The case of the first applicant is that in order to look after the family, he had made several representations to the respondents to give him an appointment on compassionate ground and yet his representations have been rejected for the reasons that there is an earning member already in the family, who is the younger brother of the applicant, that the mother of the first applicant (applicant No. 2 herein) was in receipt of family pension, that the family have

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received terminal benefit of Rs. 59,064/- and that they have agricultural land with a regular annual income from that source of the order of Rs. 3600/-. The applicants have disputed the reasons stated to have weighed with the respondents in rejecting the representation of the first applicant for a compassionate appointment.

2. According to the applicants, the relevant considerations ought to be that the only brother of the first applicant, who is employed, does not live with the family, that it is difficult to maintain the family with the income derived in the form of family pension and any other income from the property and that the terminal benefits mentioned above are inadequate. The applicants have also alleged that the respondents have delayed the matter intentionally in granting the first applicant compassionate appointment.

3. The applicants have prayed for a direction to the respondents to give compassionate appointment to the first applicant and also to dispose of the representation/appeal made by the first applicant within a specific period of time to be prescribed by the Tribunal.

4. The respondents, while resisting the reliefs sought by the applicants, have pointed out that the second applicant i.e. the widow of the deceased Govt. employee, had prayed for appointment of the first applicant in relaxation of normal rules in the event of her husband's death. However, the representation made by the second applicant was rejected on the ground that there was already an earning member in the family, that the widow was getting the family pension of Rs. 686/- per month, that terminal benefits to the tune of Rs. 59,064/- had been paid to the family, that there was no heavy liability and that the family was in possession of agricultural land from which an annual income of Rs. 3600/- was being derived. Against that order dt. 27.2.96 rejecting her representation, the second applicant preferred an appeal for reconsideration of her case. According to the respondents this was enquired into thoroughly and the matter was processed; but eventually the said appeal was rejected and the decision communicated to that effect to the applicant by letter dt.

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7.10.96. In the reply statement filed on behalf of the respondents, it has been specifically mentioned that the family pension of Rs. 686/- has since been enhanced to Rs. 2096/- w.e.f. 1.1.96. They have also denied that there was any intention on the part of anybody in the Deptt. to deprive the applicants of any benefits which are legally due to them.

5. The applicants have filed a rejoinder to the reply statement of the respondents where they have practically reiterated the major contentions taken in the main OA.

6. The only point for consideration that arises from the facts and circumstances of the case, as narrated above, is whether the applicants have a legal right to a compassionate appointment to be made in favour of first applicant. We observe that through a catena of case-laws on this matter, the Hon'ble Supreme Court has laid down the criteria to be satisfied for a compassionate appointment claimed by a member of the family of a deceased Govt. employee. Briefly stated, those criteria are that there should be considerable financial stringency caused to the members of the family in the wake of the death of the Govt. servant while in serve, that there should be a perceptible urgency in the situation warranting relaxation of the normal rules of recruitment and making a compassionate appointment in relaxation of such rules, and finally that the executive i.e. the respondents in this case, are competent to fix an upper limit for such appointment in the form of a percentage of the total vacancies occurring in the concerned deptt. against which the request for compassionate appointment may be considered in a year.

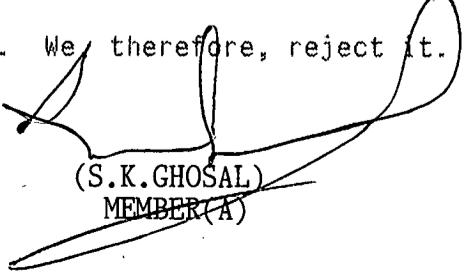
7. In Haryana State Electricity Board -vs- Naresh Tanwar reported in 1996(2) SLR (SC) p 11, the Hon'ble Supreme Court has laid down the principle that the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the members of the family of the deceased employee and further that such appointment shall not be made after lapse of a reasonable period, after the

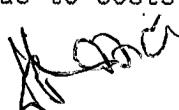
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financial crisis, ^{AS} created due to the sudden death of the concerned employee, is over. In Umesh Kr. Nagpal -vs- State of Haryana & Ors reported in 1994(2) SLR (SC) 677, the Hon'ble Supreme Court had earlier held that there was no legal requirement of offering compassionate employment as a matter of course and that the only ground, which would justify a compassionate appointment, was the pecuniary condition of the family of the deceased Govt. employee. The principle that the compassionate employment cannot be granted after a lapse of reasonable period has also been stated in the said case-law. The Apex Court has prescribed that the object of compassionate employment is to enable the family to get over the financial crisis, which it faces at the time of death of the sole breadwinner and that compassionate employment cannot be claimed and offered after the lapse of reasonable time and after the crisis is over.

7. Applying the above principles laid down by the Hon'ble Supreme Court to the facts and circumstances of the case, we observe that the father of the first applicant and husband of the second applicant had died admittedly on 1.2.92, which was more than 7 years and 10 months ago. The emergent nature of the crisis cannot be held to have continued till now in the wake of the death of the husband of the second applicant and father of the first applicant. The overall pecuniary situation of the family based on the facts stated by the respondents, which have not been denied by the applicants, in our considered view, do not indicate that the family, comprising the widow of the deceased Govt. servant and the applicant No. 1 himself, can be held to be in considerable financial stringency. It is, therefore, difficult for us to appreciate the main contention of the applicants here that they are indeed facing even now great financial hardship caused by the untimely death of the deceased Govt. servant.

8. For the reasons discussed by us above, we are not persuaded to grant the relief sought by the applicants. The OA is devoid of any merit. We therefore, reject it. There shall no order as to costs.


(S.K.GHOSAL)
MEMBER(A)


(D.PURAKAYASTHA)
MEMBER(J)