

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No.632/2005
This, the 18th day of October 2007

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Urmila Sharma aged about 45 years (O.B.C.) widow of Late Sri Laxmi Narain, Ex. Postman Aminabad Perk Post Office R/o DSE1/164 Sector-C, Sitapur Road Yozna, Aliganj, Lucknow.

Applicant.

By Advocate:- Shri R.S. Gupta.

Versus.

1. Union of India through Secretary, Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P., Lucknow.
3. Senior Superintendent of Post Offices, Lucknow.

... Respondents.

By Advocate:- Shri S.P. Singh for Shri M.A. Khan.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant, has filed the Original application to quash the rejection order for his appointment on compassionate ground dated 15.6.2004 (Annexure-1) and issue direction to the respondents to appoint her on any post in accordance with her qualification.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that there are no justified grounds to quash the impugned rejection order.



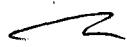
3. The applicant has filed R.A. denying the pleas taken by the respondents and also reiterated the pleas taken in the OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant is the widow of late Laxmi Narain, who died on 21.12.1998, while working on the post of Postman , A Part Road Post Office, leaving behind his widow, old aged mother and two unmarried daughters. Immediately, i.e. on 21 01.1999, the applicant submitted an application for appointment under Dying in harness rules and subsequently, she also sent reminders informing her indigent condition to the respondents but when there was no response for more than three years, she filed O.A.No.49/2002 on the file of this Tribunal and the same was disposed of on 25.1.2002 with a direction to the respondent authority to decide the representation dated 8.10.2001 within 2 months from the date of order. Annexure-2 is the copy of said order. But the respondents have rejected the claim of the applicant on 18.3.2002 covered under Annexure-12.

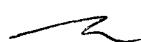
7. Aggrieved by the same, she filed OA No.219/2007 and the same was disposed of 4.4.2003 with a direction to the respondent authority that the applicant shall be kept in waiting list, if any prepared for compassionate appointment and incase, no such waiting list prepared, she should be considered for compassionate appointment in the first vacancy to be filled within 5% quota allotted to compassionate appointment. Anenxure-3 is the copy of the said order and direction given in O.A.No.219/2002. Thereafter, she also moved



C.C.P.No.90/2003 but the same was closed on filing of compliance report with order dated 15.06.2004 by the respondents with observation that applicant is at liberty to file fresh OA, if any, thing remained unexecuted as per orders of the Tribunal. Annexure-14 is the copy of the order in C.C.P.No.90/2003 dated 18.11.2005. Thereafter, the applicant has filed this OA challenging the impugned order dated 15.6.2004 Annexure-1. The applicants family got terminal benefits to the tune of Rs. 1, 33,201/- and the applicant is getting finally pension of Rs.1275 + DA, per month is also not in dispute.

8. The applicant challenged the impugned rejection order dated 15.6.2004 (Annexure-1) on the ground of discrimination stating that the applicant is in most indigent condition, when compared to the approved candidates and thus, the rejection of her claim is illegal. It is also the arguments of the learned counsel for the applicant that the respondents rejected the claim of the applicant illegally, without furnishing any reasons and further on the ground of discrimination. To substantiate such contentions, the applicant, mainly relied on rejection order (Annexure-1) stating that no justified reasons are furnished for rejection of her claim for compassionate appointment. In such circumstances, perusal of the impugned order dated 15.6.2004 is more required.

9. The operative portion of the Annexure-1 says that in accordance with the instructions issued by the department from time to time on the subject and taking into account the liability of the family, financial condition and other relevant factors and after inter-se consideration of all the cases and keeping in view of the prescribed ceiling for appointment on compassionate ground, the committee did not



recommend Smt. Urmila Sharma (Applicant) for appointment on compassionate ground.

10. Admittedly, the tribunal give directions to the respondents in O.A.No.219/2007, which lead the authorities to pass impugned order (Annexure-1), stating that the applicant shall be kept in waiting list if any prepared and in case, no such waiting list prepared, she should be considered in the first vacancy to be filled within 5 % quota allotted to compassionate appointment. But the impugned order does not contain any of those details and it is not known whether there was any waiting list and considered the claim of the applicant in the first vacancy and also details of selected candidates and their deserved qualifications, when compared to the applicant indigent conditions. Thus from the reading of Annexure-1, it is not clear that they have considered the claim of the applicant and passed orders as per the direction of the Tribunal.

11. When it is the case of respondent authority that in the CRC meeting, liabilities of the applicant had considered like family background, financial condition and other relevant factors along with others rival claimants, there is no problem for furnishing such details and also which are the demerits of the case of the applicant, when compared to the approved candidates. Without furnishing any of those details and reasons, giving any of the decision of the authorities cannot be concluded that it is a reasoned order. To maintain transparency in the decision of the authority, all those details are essentially required and because of hiding of such details and lack of transparency naturally one can suspect the order of authority. Further, when the applicant who feels that her claim is justified and reasonable,



when compared to others and waiting with great hope, suspecting such decision of rejection order without details is natural and also human nature.

12. In the instant case, admittedly it is the third round of litigation and it is not at all desirable on the part of respondent authority to force the applicant, who has been struggling and also facing financial problems to maintain the family consisting of old aged mother-in-law and two unmarried school going daughters after the death of their sole bread earner. Further, the applicant has no support of any male member in the family. In such circumstances, waiting for years with great hope of job for maintenance of the family is nothing but a type of punishment and mental agony not only to the applicant but also all the family members of the deceased employee. The purpose of Scheme for appointment under dying in harness is to provide immediate relief to the family, who lost their bread winner and who are in financial depression and crises. The purpose of scheme is purely a welfare scheme to give helping hand to the family of the deceased employee, whom he left in distress condition and source of income.

13. During these nine years period, if no vacancy available one cannot blame the respondent department and similarly, if approved and appointed candidates are more deserving and indigent condition, it is not fault on the part of the respondents for not approving the claim of the applicant. If all those details are furnished to the applicant in rejection order, again she approaching the Tribunal does not arise. But without furnishing such details and reasons how the applicant would know that she is not deserving candidate, when compared to approved candidates and passing simple rejection order that your



case is not deserving, when compared to the other cases is not at all the order in the eye of law. The authority, who exercised quasi-judicial power and passed order without furnishing any reasons and without any creating ambiguity in the mind of the parties, and such order cannot be treated as a reasoned order. From time to time, DOPT also issued instructions remanding the authorities, to pass reasoned order without giving any scope for further litigation from the parties. Inspite of such instructions and directions, there is no positive action from the authorities.

14. But in the instant case, the attitude of the respondents passing such rejection order without reasons is nothing but forcing the party to go for another round of litigation and creating multiplicity of cases which is neither so simple nor free of cost to a party. At the same time, it is not so easy to get any quick disposal of such claims in few months, to serve the purpose of the scheme for which it was introduced to relieve the family of deceased from financial destitution and to help it get over the emergency.

15. Now we are at a stage, even a stranger who can get information and also reasons for decision of quasi judicial authority, by filing an application under Right of Information Act (RTI). But here, the applicant, who made representation, is not in a position to know such information and reasons for not considering her claim and also consideration of claim of others. All these circumstances, clearly shows that the act of the respondent authorities in passing such orders without giving reasons is arbitrary and against the instructions given to them from time and again by DOPT, to serve the purpose of the scheme.

16. In the instant case after the death of her husband Late Sri Laxmi Narain, in December 1994 the applicant made representation for compassionate appointment and waited for about three years and when there was no response inspite of reminders, she was forced to file O.A.No.49/2002 and thereafter she has been filing cases one after another only because of non consideration of her claim properly and all most keeping her in dark without furnishing any valid reasons for rejection or disentittement of her claim and ultimate result is spending her valuable time of nine years in court litigation of original side, by incurring huge expenditure. In my view, all these circumstances clearly shows that mere simple direction again and again for reconsideration of the claim of the applicant, for years together does not serve any purpose to feel the gravity of such direction of reasoned order and as such, I am forced to order imposing costs on the respondents, for not giving reasons for rejection of such claim of the applicant and forcing her to litigate the matter in the tribunal for more than nine years.

17. In view of the above circumstances, the impugned rejection order is not at all reasoned order and as such the same is liable for quashing with a direction to the respondent department to reconsider the case of the applicant and pass a reasoned and speaking order in respect of the claim of the applicant for compassionate appointment and also giving the details of demerits, when compared to the approved candidates. To show transparency and fair play on the part of respondents, they are directed to furnish details in their reasoned order, giving the details of vacancies arose under compassionate appointment quota, CRC meetings, and in which candidates selected

under compassionate appointment quota from the date of representation of the applicant till now and also merits of those selected candidates, when compared to the applicant, by furnishing a copy of order to this tribunal. Three months time granted to the respondents for reconsideration of the claim of the applicant with the above reasons, from the date of receipt of copy of this order

In the result, OA is allowed and also ordered for imposing cost of Rs.1500/- on Respondent No.2.


(M. KANTHAIAH)
MEMBER (J)

18.10.2007

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