

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. 275/2006

This, the 8<sup>th</sup> day of July, 2007.

Hon'ble Mr. A. K. Singh, Member(A)

Onkar Nath Shukla aged about 33 years, son of late Sri Mahesh Dutta Shukla of village and Post Ralamau. Tehsil Misrikh, Distt. Suitapur.

...Applicant.

By Advocate Shri Atul Dixit

Versus

1. Union of India through Secretary to Department of Postal Services, Ministry of Communication, Govt. of India, New Delhi.
2. High Powered Relaxation Committee, Directorate of Postal Services through its Chairman, Director General of Post Offices, New Delh.
3. Circle Relaxation, Committee, through its Chairman, Chief Post Master general, Uttar Pradesh, Lucknow.
4. Superintendent of Post Officers, Sitapur Division, Sitapur.
5. Inspector of Post Officers (Central Sub-Division) Sitapur).

Respondents.

By Advocate Shri K.K. Shukla.


Order

BY Hon'ble Shri A. K. Singh, Member (A)

The O.A. bearing No. 275/2006 has been filed by the applicant Onkar Nath Shukla (of the address given in the O.A.) against order No. (i) H-134/E Dated 5.5.2006 along with order No. Rectt/M-8/25/2003/10 Luck dated 3.5.2006. (ii) H-134/E Dated 6.10.2003(ii) Dated 3.5.2006, 5.5.2006 and 6.10.2003. The order dated 3.5.2006 has been passed by the Chief Post Master General Lucknow on the basis of the recommendation of the Circle relaxation Committee.

2. Brief facts of the case are that applicant's father Shri Mahesh Dutta while working as Branch Post Master (Gramin Dak Sewak Branch Post Master), Ralamau Branch, Post Office district Sitapur dyied in harness on 24.4.2002. Shri Mahesh Dutta has left behind him 3 major sons namely Ram Prakash Shukla, Onkar Nath Shukla- (Petitioner) and Sree Kant Shukla. The first son Ram Prakash Shukla is employed in Fire Extinguishing Deptt. (Agni Shaman Services) as Head Constable . The second son Sree Kant Shukla is mentally retorted. After the death of Shri Mahesh Dutta , the applicant applied for his appointment on compassionate grounds and submitted a certificate issued by the Gram Pradhan of his Gram Panchyat wherein it was certified that the eldest son of the deceased employee Shri Mahesh Dutta Shukla is settled at Hardoi and was not supporting the family and the third son is dependent on petitioner. The case of the applicant was accordingly examined by the Circle Relaxation Committee. On their recommendation, the respondents rejected the applicant's request for compassionate appointment. The applicant submits that his case was rejected on the following grounds:

(i) The eldest son of the deceased is already employed in Fire Extinguishing Department(Agni Shaman services) as Head Constable.

 (ii) The deceased is not survived by his wife or or any marriageable daughter.

(iii) The deceased possessed 0.817 hectrs of land and the applicant's yearly income is Rs. 8000 per annum from the aforesaid land.

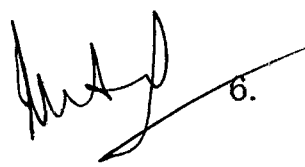
(iv) That the deceased employee has died only two months before his retirement.

3. The applicant submits that the grounds on the basis of which his case has been rejected by the respondents do not hold any water. He submits that his elder brother Shri Ram Prakash Shukla is already separated with the family since several years and is settled at Hardoi and does not even support the family financially.

4. The fact that the deceased father did not leave behind his wife or any marriageable daughter is also not a relevant factor for consideration in this regard. The Annual income of Rs. 8000 from the yield of 0.817 hectrs of land is hardly sufficient to meet the expenses of his family.

5. It is a settled law that these extraneous point do not merit any consideration while deciding the question of compassionate appointment of the dependents of employees. On the basis of the above, the applicant seeks the following relief in the O.A.:

To quash the order dated 5.5.2006 contained in Annexure No. 1 rejecting his case for compassionate appointment and to grant him any other relief as may be deemed fit under the circumstances of this case.



6. The respondents have opposed the O.A. on the basis of the grounds mentioned above. They submit that the O.A. is devoid of any merit. They also submit that any dependents of EDDA cannot have any claim for appointment as the deceased employee

was not a regular government servant . On the basis of the above, the respondents pray for dismissal of O.A.

7. The applicant as well as respondents were heard in person today i.e. on 6.7.2007. Sri Atul Dixit Advocate appeared on behalf of the applicant and Sri K.K. Shukla Advocate appeared on behalf of the respondents. The counsels, on both sides, reiterated their submissions as above in support of their respective case.

6. I have given my anxious consideration to the facts and circumstances of the case and have perused the records. I find that the principles enunciated by the Apex Court in the case of Balbir Kaur and another Versus Steel Authority of India Ltd. and Others reported in [(2003) 3 UPLBEC-2005] read as under:

"Mr. Bhasme further contended that family members of large number of the employees have already availed of the Family Benefit Scheme and as such it would be taken to be otherwise more beneficial to the concerned employee. We are not called upon to assess the situation but the fact remains that having due regard to the Constitutional philosophy to decry a compassionate employment opportunity would neither be fair nor reasonable. The concept of social justice is the yardstick to the justice administration system or the legal justice and as rescopound pointed out that the greatest virtue of law is in its adaptability and flexibility and thus it would be otherwise an obligation for the law Courts also to apply the law depending



upon the situation since the law is made for the society and whichever is beneficial for the society, the endeavor of the law Court would be to administer justice having due regard in the direction"

7. I find that the annual income of Rs 8000/-earned by the applicant's family from the yield of 0.817 hectares can never be taken as sufficient to meet the expenses of the family. Respondents however have a valid point stating that the applicant's elder brother Shri Ram Prakash Shukla is already employed as Head Constable in Fire Extinguishing Deptt. (Agni Shaman Services). To this, applicant's reply is that his elder brother Shri Ram Prakash Shukla has not been supporting the family at all and has been living separately at Hardoi. He also cites an instructions issued by DG Posts vide letter No. 17-85/9-ED & Trg Dated 2.2.1994 which is reproduced below:

"Note 5- When there is already an earning member in the family and the request is for the appointment of the second dependant of the deceased ED Agent on compassionate grounds, the same may be examined by the Circle Relaxation Committee on merits of each case and case referred to this office for further consideration/formal approval with the personal recommendations of the Chief Postmaster-General.

However, in any particular case, if the Circle Relaxation Committee finds that the family is not in indigent circumstances, the committee could reject the same similarly, in cases where some of the dependants of the deceased ED Agents are engaged in seasonal work such as cultivation, etc

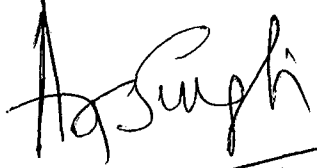
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requests for compassionate appointment may be considered on merit and decision taken by the Circle Relaxation Committee concerned under Chief Postmaster-General's Chairmanship, keeping in view the assets and liability position of the beneficiary family concerned."

8. The above position saps the foundation of the respondents' claim that the applicant's father was an Extra Departmental Delivery agent and not a permanent employee and hence his son i.e. the applicant is not entitled for appointment on compassionate grounds.

9. The fact that the father of the applicant has not behind any marriageable daughter or a widow cannot be a relevant consideration for deciding the case of the applicant for appointment on compassionate grounds. . Hence, the impugned order of the respondents dated 5.5.2006 rejecting the case of applicant for compassionate appointment is not maintainable in law and hence deserves to be quashed and set aside. I order accordingly. Respondents are directed to reconsider the case of the applicant for appointment on compassionate grounds if he is otherwise suitable and eligible in accordance with DG Posts instructions contained in his letter No. 17-85/9-ED & Trg Dated 2.2.1994.

9. In consequence, O.A. is allowed. No costs.

  
Member (A)