

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 466 of 2009

This the 9th day of February, 2011

Hon'ble Mr. Justice Alok Kumar Singh , Member-J

Ankur Saxena, Aged about 27 years, S/o late Sushil Chandra Saxena, deceased SA, RMS, BL. Division Bareilly, C/o K.P. Bhardwaj, 239, Badujai-II, Shahjahanpur.

.....Applicant

By Advocate : Sri P.R. Gupta

Versus.

1. Union of India through its Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P. Circle, Lucknow.
3. Postmaster General Bareilly Region, Bareilly.
4. Superintendent RMS (BL) Division, Bareilly.

.....Respondents.

By Advocate : Sri Atul Dixit

O R D E R

This O.A. has been filed under Section 19 of Administrative Tribunals Act, 1985 directing the respondents to make compassionate appointment of the applicant after quashing the impugned order dated 23.3.2007 (Annexure-1) informing that the applicant's case for compassionate appointment has been finally rejected.

2. According to the applicant, his late father Sri Sushil Chandra Saxena was a regular S.A. working in RMS, Shahjahanpur under RMS Division, Bareilly, who died on 4.10.1990. The applicant's mother Smt. Asha Lata Saxena immediately applied for compassionate appointment in favour of the applicant. But according to the applicant, his mother was tossed up for more than 16 years and ultimately it was rejected in

the light of several instructions of DOP&T issued in the years 1995 to 2004, which were infact not applicable in this case. It is said that all these instructions were issued after 4.10.1990 i.e. much after the death of applicant's father.

3. The case of the respondents is that at the time of death of Sri Sushil Chandra Saxena in 1990, the applicant was only eight years and three months old. His mother Smt. Asha Lata Saxena had applied for compassionate appointment on 10.12.1990 saying that after attaining the age of majority, the appointment may be made to her son. After passing 10 + 2 standard, another application for compassionate appointment was made on 11.7.2000. After completion of usual formalities, the case of the applicant was forwarded to Circle Relaxation Committee (CRC). But his case was not recommended due to limited number of vacancies after taking into account inter-se merits of all the cases in terms of assets and liabilities etc. of the family like total number of dependents, minor children, marriage of daughters, responsibility of aged parents etc. It is also said that about Rs. 47848/- has been paid by the department as terminal benefits. Besides, the widow is getting family pension at the rate of Rs. 1275/- + D.A. per month. Not only that, the widow of ex-employee is also a Teacher in Intermediate College at Shahjahanpur from where she is getting Rs. 4650/- + DA per month as salary, which might have been increased by now. It is said that now the applicant is dependent upon his mother. Lastly, it is said that the CRC had adjudged the above financial assets as adequate, hence the applicant's case could not be approved. In reply to the contention of the applicant that his claim has wrongly been rejected in view of various instructions of DOP&T, which has been issued in the year 1995, it has been pleaded on behalf of the respondents that in view of Hon'ble Apex Court's judgment rendered in the case of Sanjay Kumar Vs. State of Bihar & Others reported in 2000 (7) SCC 192 there cannot be any reservation of vacancy till a minor attains majority for appointment on compassionate grounds. The applicant's father had died about 19 years before and the family of the deceased has been surviving adequately. The respondents have placed reliance on the following case laws:

- (i) United Bank of India Vs. M.T. Latheesh 2006 (7) SCC 350.
- (ii) State of J & K & Others Vs. Sajad Ahmad Mir, 2006 (5) SCC 766.
- (iii) National Institute of Technology Vs. Manoj Kumar Singh 2007 (1) SCC (L&S) 668.

In these cases, it has been laid down that the appointment on compassionate grounds cannot be granted to the widow or son after a long lapse of time.

4. I have heard the learned counsel for the parties and carefully perused the material on record.

5. At the outset, it appears that the applicant has not come before this Tribunal with clean hands. In the pleadings contained in the O.A. he has simply mentioned about the date of death of his father i.e. 4.10.1990 in para 4.1. Then, in para 4.3 it has been pleaded that the authorities tossed the papers for more than 16 years and ultimately rejected his claim. The fact of the matter is that at the time of death of his father, the applicant was only eight years old as has been disclosed in the Counter Affidavit. Then, his application for compassionate appointment was moved on 11.7.2000, therefore, where is the question of alleged tossing up papers for more than 16 years by the respondents. Not only this, the applicant deliberately did not disclose that his widowed mother, who besides getting family pension, is also earning about Rs. 4650/- + allowances per month as salary from Intermediate College at Shahjahanpur where she is a Teacher. When this fact was disclosed in the Counter Affidavit, it was replied that the applicant is not dependent upon his mother and that the applicant is living separately from her mother. Firstly it has been pleaded in a sweeping and general manner. He has not disclosed as to where is his separate place of residence, if he is not living with his mother. Secondly, this plea is against his own documents, which has been brought on record by none other than the applicant showing himself to be living in care of i.e. C/o Smt. Asha Lata (mother).

6. In the conspectus of the case, therefore, I regret in not finding any substance for quashing the impugned order. The applicant

has also not come with clean hands before this Tribunal as discussed hereinbefore. Accordingly, the O.A. is dismissed. No order as to costs.



9.2.71

(Justice Alok Kumar Singh)
Member-J

Girish/-