

**Central Administrative Tribunal ,Lucknow Bench, Lucknow.**

**Original Application No.220/2010**

**Reserved on 3.1.2014**

**Pronounced on /7<sup>th</sup> January, 2014**

**Hon'ble Sri Navneet Kumar, Member (J)**

Virendra Kumar aged about 25 years son of late Lal Ji resident of village Araji Lines Sultanpur, Post Adalpura, District- Mirjapur , U.P.

Applicant

By Advocate: In person

Versus

1. Union of India through the Secretary, Ministry of Communication, New Delhi.
2. The Chief Post Master General, U.P. Circle, Lucknow.
3. Supdt. Of Post Offices, East Zone, Varanasi.

Respondents

By Advocate: Sri S.K.Singh

**ORDER**

**By Hon'ble Sri Navneet Kumar, Member (J)**

The present O.A. is preferred by the applicant under section 19 of the AT Act with the following reliefs:-

- i) Issue order or direction to opposite parties to quash the impugned order dated 2.7.2008, 13.10.2008 and 28.7.2009 contained in Annexure No.1,2 and 3 to this Original Application or any other order which has the effect of denying the compassionate appointment to the applicant.
- ii) Issue order or direction commanding opposite parties to grant compassionate appointment to the applicant on a class III post and to take work and pay salary regularly.
- iii) Grant any other relief, which this Hon'ble Tribunal deems fit in the facts and circumstances of the case. Cost of this O.A. may pleased be awarded.

2. The brief facts of the case are that the applicant is the son of the deceased employee who was working with the respondents organization and died on 16.10.2001. After the death of the ex-employee, the applicant applied for grant of compassionate

appointment and the case of the applicant was considered by the Circle Relaxation Committee held on 16.1.2007 and 18.1.2007 and in the absence of lesser number of vacancies under the quota for compassionate appointment and also considering the financial condition of the family and in comparison to the case of other candidates, the case of the applicant was not approved by the Committee, accordingly, it was rejected and the decision was duly communicated to the applicant. The said decision was duly communicated to the applicant vide letter dated 30<sup>th</sup> March, 2007 which was subsequently informed vide letter dated 2.7.2008 as well as 13.10.2008 and vide letter dated 28<sup>th</sup> July, 2009. The applicant feeling aggrieved by the said orders, preferred the present O.A.

3. The learned counsel appearing on behalf of the respondents filed their reply and through reply, it was pointed out by the respondents that the present O.A. is barred by limitation as the same has been filed after a period of 3 years from the date of decision of the Circle Relaxation Committee. It is also pointed out by the learned counsel for the respondents that the case of the applicant was duly considered by the CRC but could not be recommended on account of lesser number of vacancies under 5% quota for compassionate appointment as well as all daughters are also married and the applicant is having agricultural land and one pucca makkan and mother of the applicant is also getting a sum of Rs. 4725/- per month as family pension. Apart from this, it is also pointed out by the learned counsel for the respondents that the applicant himself earns Rs. 1800/- per month from agriculture and other sources. The decision of the CRC was duly communicated to the applicant vide letter dated 30<sup>th</sup> March, 2007 and the ex-employee died in 2001 and it is pointed out by the learned counsel for the respondents that only ground which can justify compassionate appointment is the penurious condition of the family and it should be offered as relief against destitution.

4. The applicant has filed Rejoinder reply and through rejoinder reply, mostly the averments made in the O.A. are reiterated.

5. Heard the learned counsel for the parties and perused the record.

6. Admittedly, the applicant is the son of the deceased employee who died in 2001 and thereafter, he has moved an application for grant of compassionate appointment which is said to have been considered by the respondents in their CRC meetings in 2007 and the same was rejected on the ground of limited number of vacancies under compassionate appointment quota as well as on the basis of financial condition and responsibilities of the family. It is also undisputed fact that the mother of the applicant is getting family pension of Rs. 4725/- per month and the applicant is also earning Rs. 1800/- per month from the agricultural land and from other sources. It is also correct to state by the learned counsel for the respondents that the appointment on compassionate ground can be given only to overcome the sudden crises of the deceased family and the object of the scheme is to help the family to get out of the emergency which is indigent and deserves immediate assistance for relief from financial destitution. The compassionate ground is an exception to general rule and normally an employment in the Govt. or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution of India and on the basis of competitive merits, an appointment should be made to public office and once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution.

7. The Hon'ble Apex Court in the case of **State of Haryana Vs. Rani Devi reported in (1996) 5 SCC 308**, held that "the

claim of the applicant for appointment on compassionate ground is based on the premise that he was dependent on the deceased employee. Strictly this claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution.”

8. In the case of **Life Insurance Corporation Vs. Asha Ramchandra Ambekar** reported in (1994) 2 SCC 718, it is observed by the Hon'ble Apex Court that “**the High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic considerations to make appointment on compassionate grounds when regulations framed in respect thereof do not cover and contemplate such appointments.**”

9. In the case of **Umesh Kumar Nagpal Vs. State of Haryana** reported in (1994) 4 SCC 138, the Hon'ble Apex Court has observed that “**Public Service appointment should be made strictly on the basis of open invitation of applications and on merits. The appointment on compassionate ground cannot be a source of recruitment. It is merely an exception to the recruitment of law keeping in view the fact of the death of the employee while in service leaving his family without any means of livelihood.**”

10. In the instant case, the ex-employee expired in the year 2001 and the case of the applicant was considered in 2007 and decision was duly communicated to the applicant as well. As such I do not find any ground to interfere in the present O.A.

11. Accordingly the O.A. is fit to be dismissed. It is dismissed. No order as to costs.

  
(Navneet Kumar)  
Member (J)

HLS/-