

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW**

Original Application No. 294/2010

This, the 2nd day of March, 2012.

HON'BLE SHRI NAVNEET KUMAR, MEMBER (J)

1. Jitendra Pratap Verma aged about 27 years, Son of Shri Jai Ram Verma, retired PA HSG RLO Lucknow R/0 Dalibagh colony, Baba Ramaiya Ji Puram Lucknow.
2. Jai Ram Verma aged about 58 years retired PA HSG RLO Lucknow R/o Dalibagh Colony, Baba Ramaiya Ji Puram Lucknow.

Applicant

By Advocate Sri Praveen Kumar.

VERSUS

1. Union of India, through the Secretary Department of Posts, Dak Bhawan, New Delhi.
2. CPMG UP Lucknow.

Respondents

By Advocate Sri Ganga Singh.

ORDER (ORAL)

By Hon'ble Shri Navneet Kumar, Member (J)

The present Original Application has been preferred by the applicant under Section 19 of the Administrative Tribunal Act seeking quashing of the impugned order dated 22.1.2010 as contained in Annexure-1 whereby the case of the applicant was considered by the respondents and the same was rejected on the ground of penury position of the family of the ex-employee and has also rejected that the case of the applicant was considered by the Circle Relaxation Committee considering the financial condition and the members of the family and other liabilities in keeping all these issued in mind they rejected the case of the applicant for appointment on compassionate ground.

2. The learned counsel appearing on behalf of the applicant submits that the applicant's family is hard pressed and the respondents are passing the stereo type orders and the applicant's family required the immediate assistances from the Central Government by means providing the compassionate appointment to the applicant and in case the same is not provided to the applicant, the family members of the applicant will suffer a lot.
3. The learned counsel for the respondents filed their counter reply and submitted that the applicant's father who was working as Postal Assistant

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retired on medical ground on 31.1.2007 and the applicant has applied for his appointment on the compassionate ground, the case was considered and it is found that after the applicant's father an amount of Rs. 205206/- was paid to the ex official as terminal benefits and he has also received a monthly pension of Rs. 4510/-+ DA. The respondents also pointed out that the case of the applicant was considered by the Circle Relaxation Committee in its meeting held on 8.12.2009 to 10.12.2009 and 16.12.2009 and taking into account all the conditions, the case of the applicant could not be recommended by the committee which was subsequently rejected by the authorities.

4. The learned counsel appearing on behalf of the applicant submitted the rejoinder affidavit and mostly reiterated the averments made in the O.A.

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

6. It is an admitted fact that the applicant's father who was in service has retired on medical ground on 31.1.2007 and the applicant has submitted his application for compassionate appointment immediately thereafter. The case of the applicant was considered and rejected by the Circle Relaxation Committee and a decision was taken which was communicated to the applicant by means of an order dated 22.12.2010 stating therein that the case was rejected on the ground that the ex-official has received the terminal benefits to the tune of Rs. 205206/- and is also getting the monthly pension of Rs. 4510/-. Apart from this, it is also mentioned in the impugned order that in the absence of vacancies, the same cannot be considered. It is also indicated in the letter dated 22.1.2010 that the family was also not found in indigent circumstances in comparison to the cases which were recommended for appointment on compassionate grounds by the Circle Relaxation Committee within the limited number of vacancies.

8. The Hon'ble Apex Court in the case of **Govind Prakash Verma Vs. Life Insurance Corporation of India and Others (2005) 10 SCC 289**, it is observed that "scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of deceased employee as benefit of service which they get on the death of employee. Therefore, compassionate appointment cannot be refused on the ground that any \w

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member of family had received such benefit." In another judgment of the Hon'ble High Court reported in **(2009) 3 UPLBEC-2212, in the case of Hari Ram Vs. Food Corporation of India**, it was observed that "scheme of compassionate appointment has to be made on human and sympathetic consideration." The Hon'ble Apex Court in the case of **Mukesh Kumar Vs. Union of India and Others reported in (2007) 8 SCC 398** has been pleased to observed that "the applicant's request for compassionate appointment rejected on the ground that the family was not in indigent condition and there is no indication is available how the departmental authorities arrived at this conclusion." In the aforesaid case, the Apex Court also observed that "there is no indication as to on the basis of which materials the conclusion was arrived at. It is not clear as to what were the material before the Circle Level Selection committee to conclude that the family was not in financially indigent condition." The applicant is also relied upon the two decisions of this Tribunal passed in O.A. Nos. 121/2003-Vinod Kumar Nigam Vs. Union of India and Others and O.A. No. 187/2008 Sri Shashi Kant Ojha vs. Union of India and Others.

9. The similar issue was heard by this Tribunal and the O.As were allowed. The law has been settled on this point. The receipt of family pension and terminal benefits cannot be sole ground for denying the compassionate appointment. If that is accepted as plausible reason for refusing such appointments, no dependent of central government can get it because monthly pension is invariably more than 1767.20 which is the poverty line, which has been taken as a benchmark for assessing the financial condition of the family.

10. In view of the aforesaid discussions, I come to the conclusion that impugned order dated 22.1.2010 rejecting the claim of the applicant on the ground of indigency criteria was without any basis. Besides everything, having regard to the settled principles of legitimate expectation also the respondents are required to consider and provide the compassionate appointment to the applicant in pursuance of his offer of compassionate appointment.

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11. In view of the above, the O.A. is allowed. The impugned order dated 22.1.2010 is hereby quashed. The respondents are directed to consider for providing compassionate appointment to the applicant in pursuance of his application for compassionate appointment. The same may be done within a period of 3 months from the date a certified copy of this order is produced before them. No order as to costs.

U.P. Aparna

(Navneet Kumar)
Member (J)

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