

**Central Administrative Tribunal Lucknow Bench Lucknow**

**O.A. No. 328/2006.**

**This, the 3<sup>rd</sup> day of December, 2007.**

**Hon'ble Shri Justice Khem Karan, Vice Chairman.**

Anirudh Pandey, aged about 26 years,  
Son of Late Ram Tej Pandey,  
Resident of Village Raj Baundi,  
Tehsil Mohsi, District Bahraich.

...Applicant

By Advocate Shri V.B. Kalia.

**Versus**

1. Union of India through Ministry of Post and Telegraphic Services, New Delhi.
2. Chief Post Master General U.P. Lucknow Circle, Lucknow.
3. Superintendent, Head Post Office, Bahraich.

Respondents.

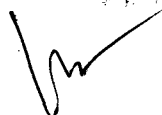
By Advocate Shri D. P. Singh.

**Order (Oral)**

**By Hon'ble Shri Justice Khem Karan, Vice Chairman.**

Applicant Aanirudh Pandey, son of late Shri Ram Tej Pandey, has prayed for quashing communication dated 13.4.2005, (Annexure 1), by which his request for compassionate appointment under dying in harness rules, has been rejected. He <sup>has</sup> also prayed for commanding the respondents to appoint him on suitable post, under dying in harness rules.

2. His case, in brief, is that his father Ram Tej Pandey, working as Mail Overseer under the respondents, died on 10.10.2001, while still in service, leaving behind him one unmarried daughter, widow and mother. It is said that his mother gave an application to the Respondent No. 2, for giving compassionate appointment to the applicant. Subsequently, applicant also



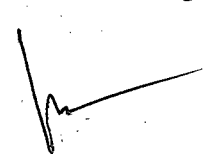
- 2 -

submitted necessary papers as required by the respondents. Copies of representation of applicants have been annexed to the O.A. The respondents however, rejected his claim for compassionate appointment.

3. It has been stated that the rejection is mechanical and wholly unjustified as major part of the agricultural land is submerged in river Ghaghra and there is little land with the family, to sustain itself. Attempt has also been made to say that number of family members is large enough and family pension is not sufficient enough. The respondents have filed reply saying that the matter was considered in accordance with the guidelines regulating such appointment and vacancies being limited to 5% of the direct recruitment in a year, case of the applicant was not found so genuine as the cases of 5 widows, whose cases were recommended for such appointment. It has also been said that the amount received by the family in the shape of terminal benefits as well as amount of family pension together with agricultural land are sufficient enough for the sustenance of the family. They say It is difficult to say that the family is so indigent as it requires assistance by way of compassionate appointment.

4. In his rejoinder, applicant has tried to say in Para 5 that out of 2.759 hectare of agricultural land, with the family approximately 0.9700 hectare area is sub merged in river Ghaghra and as such, a very small portion of land is left with the family.

5. Shri Kalia appearing for the applicant has submitted that impugned communication rejecting the claim of the applicant for compassionate appointment does not reflect the reasons which weighed with the Circle Relaxation Committee, not to recommend the case of the applicant for compassionate appointment. His second submission is that the fact that major portion of land stands submerged, was not taken into consideration by the Circle Relaxation Committee. His third submission is that genuine cases for such



appointment can be considered in the light of Para 4 (E) of office memorandum dated 30.6.93, copy of which is Annexure 8. Learned counsel for the respondents has tried to support the rejection by referring to the amount received by the family in the shape of terminal benefits, amount of family pension and to agricultural land. Shri D. P. Singh has stated that as compared to the case of the applicant, cases of those 5 widows were found more genuine, so they were recommended for such appointment.

6. I have considered the respective submissions in the light of material on record. There can be no debate as regards the legal position, that the object behind compassionate appointment under dying in harness rules is to provide assistance to an indigent family to sustain itself. Compassionate appointment under dying in harness rules, is not a regular source recruitment. All that the committee, the board or the authority has to see is as to whether the family is in financial distress. It also stands well settled that such appointment ought to be made against 5% of the vacancies of direct recruitment. Number of such claimants is often large, as compared to the vacancies in a year, so it is but natural that cases have to be examined with a view to find out more genuine cases. Criteria have been laid down in various guidelines, references<sup>4</sup>, to which is made in the impugned order. Let us see as to whether there is any flaw in the rejection of the applicant's claim.

7. There is no dispute that widow of late shri Ram Tej Pandey is getting family pension of Rs. 2300+ Dearness pay + MA and the family has also received certain amount in the shape of terminal benefits. There is further no dispute that late shri Ram Tej Pandey, left behind him more than 2 ½ Hect. of agricultural land. What Shri Kalia states is that about one hectare of this land stands submerged and is not available to the family to utilize for agricultural purposes. Though this fact was not stated in so many words in O.A. but assuming that it is so, the family is still having cultivable area of about 1 ½

hectare. In the context of compassionate appointment, this area together with the amount of family pension, cannot be said to be inadequate. If in these circumstances, the family was not found to be indigent as compared to the families of the persons whose cases were recommended for such appointment, it is difficult to say that the Circle Relaxation Committee was at fault.

8. Impugned communication cannot be said to be bad for being non-speaking. The communication has given reasons but in brief. I do not think, it was required to give exhaustive reasons for rejecting the claim for compassionate appointment. Whatever, the reasons are given, cannot be said to be irrelevant in the context of the compassionate appointment.

9. I am of the view that the applicant has not been able to make out a case for interference of this Tribunal. So, the O.A. is dismissed but with no order as to costs.

*Khem Karan*  
03.12.07  
(Khem Karan)  
Vice Chairman

v.