

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

D.A.No. 735 of 1995

Date of order -2-1997

1. Shri Shree Prakash Narain Singh, son of late Ambika Singh, retired Postal Assistant, Manjhaul Sub-Post Office at Manjhaul, District Begusarai and resident of Village, P.O. and P.S. Manjhaul, District Begusarai.
2. Shri Vijay Kumar Singh, son of Shri Shree Prakash Narain Singh, resident of village, P.O. and P.S. Manjhaul, District Begusarai.

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Applicants

-versus-

1. The Union of India, through the Secretary, Govt. of India, Ministry of Communication, Department of Posts, New Delhi-cum-The Director General, Department of Posts, Dak Bhawan, New Delhi-110 001.
2. The Chief Postmaster General, Bihar Circle, Patna-800 001.
3. The Postmaster General, Northern Region, Muzaffarpur-842 002.
4. The Superintendent of Post Offices, Begusarai Division, Begusarai.

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Respondents

CORAM: Hon'ble Shri V.N. Mehrotra, Vice-Chairman

Counsel for the applicant .. Shri S.N. Tiwary.

Counsel for the respondents .. Shri J.N. Pandey.

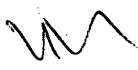
O R D E R

Hon'ble Shri V.N. Mehrotra, V.C.:-

This application has been filed for a direction that the rejection orders (Annexures-A/12 and A/14) passed by respondent nos.2 and 1 respectively be quashed and the respondents be directed to appoint applicant no.2, Vijay Kumar Singh, on the post of Postal Assistant or Sorting Assistant and in case no vacancy is available in these cadres then as Mail Guard or postman on compassionate grounds.

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2. The applicant no.1, Shree Prakash Narain Singh, is the father of applicant no.2, Vijay Kumar Singh. The applicant no.1 was earlier employed as Postal Assistant in Begusarai Postal Division of Bihar Postal Circle. His date of birth was 20.1.1935 and he was due for retirement on 31.1.1993. It is alleged that after serving the Govt. for about 33 years, applicant no.1 became invalid due to ill health and was unable to perform his normal duties. He appeared before the Civil Surgeon, Begusarai, who declared him completely and permanently incapacitated for further service of any kind in the Department vide Medical Certificate dated 27th December, 1989. The Superintendent of Post Offices, Begusarai, respondent no.4, was pleased to permit the applicant no.1 to retire from service with effect from 27.12.1989 on invalid pension vide his Office Memo dated 1.1.1990. The respondent no.4 sanctioned provisional pension at the rate of Rs.775/- per month plus pension relief admissible from time to time. The applicant no.1 retired on invalid pension on 27.12.1989. He had ~~his~~ wife, two unemployed sons, two young daughters and mother to look after. The applicant no.1 was getting Rs.1630/- per month only including interim relief. He did not possess any landed property and had only one dwelling house where he and his family members were residing. He was paid about Rs.71,000/- as pensionary benefits. He moved an application before respondent no.2 praying for appointment of applicant no.2 on compassionate grounds in relaxation of normal rules. Applicant no.2 fulfills all conditions prescribed for appointment as Postal Assistant. He had passed B.A. Examination from




Bhagalpur University in the year 1988. The annual income of applicant no.1 was Rs.19024/- as certified by the Anchal Adhikari. The case of appointment of applicant no.2 was not judiciously considered by respondent no.2, who rejected the application moved by applicant no.1 stating the ground to be "due to no liabilities". The applicant no. 1 thereafter submitted representation before the Director-General, Department of Posts, New Delhi, who by order dated 6.12.1994 rejected the representation on the ground that the family condition was not indigent.

3. The applicants have asserted that the condition of the family, which had to look after 7 members, was indigent and in accordance with the rules framed by the Department, applicant no.2 was entitled to be appointed on compassionate grounds on a suitable post. It has been asserted that the applicant no.1 after his retirement married both his daughters and the entire amount received as pensionary benefits was spent on these marriages.

4. On behalf of the respondents, it has been asserted that condition of the family of the applicants was not indigent. It is asserted that applicant no.1 was getting invalid pension and had also received pensionary benefits and in the circumstances, there was no ground for appointment of applicant no.2 on compassionate grounds.

5. I have heard the learned counsel for the parties and have perused the record of the case.



In this case it is not disputed that the applicant no.1, who was earlier an employee of the Postal Department, was retired on medical grounds due to the reason that he was declared completely and permanently incapacitated by the Chief Medical Officer, Begusarai as will appear from the certificate (Annexure-A/1) dated 27.12.1989. At the time of his retirement, the family of applicant no.1 consisted of his wife, his unemployed sons, two unmarried daughters and his mother, as there were 7 members in all in the family. The applicant no.1 was not an able-bodied person as was retired due to his ill health after being declared completely and permanently incapacitated. Thus the family had to look after the applicant no.1 himself, who obviously had ill health and was permanently incapacitated, apart from the old mother of applicant no.1 and his wife. There were also 4 sons and daughters to be looked after. The applicant no.1 was receiving about Rs.1600/- per month as his invalid pension and dearness relief which is not disputed on behalf of the respondents.

6. It has been contended on behalf of the respondents that applicant no.1 was not a landless person but owns about one bigha of land. On behalf of the applicant no.1 it has not been denied. It is said that certificate issued by the Anchal Adhikari (Annexure-A/10) shows Rs.1000/- as income from other source which is actually the income from his land. Obviously. Considering the area of land held by applicant no.1, it cannot be said that he could have earned more than Rs.1000/- per annum from the same. In the circumstances, the family can be said to be

earning Rs.1600/- per month while 7 members were to be maintained from that income.

7. The applicant no.1 had moved application for appointing applicant no.2 on compassionate grounds shortly after he was retired. That application remained pending before the authority concerned and was ultimately rejected in June,1994 observing that there was no laability. His representation against the same was rejected in December,1994, with the observation that the condition of the family was not indigent. I am unable to hold that the condition of the family of the applicants was not indigent. Obviously, it would have been extremely difficult to maintain the family consisting of 7 persons from this meagre income. The pensionary benefits including G.P. F. and D.C.R.G. were ^{spent} ~~sent~~ by the family on the marriage of daughters. Thus, there was no other income nor there were sufficient means by which the family could be properly maintained. As mentioned earlier, the applicant no.1 himself was retired on the ground that he was declared as completely and permanently incapacitated. There was his old mother and his wife who were also to be maintained apart from his young sons. In this case it is not asserted on behalf of the respondents that in accordance with the rules, the applicant no.2 could not be appointed. Their case simply is that the condition of the family was not indigent. In view of the above discussion, I am unable to accept the contention raised on behalf of the respondents that the family of the applicant no.1 was not

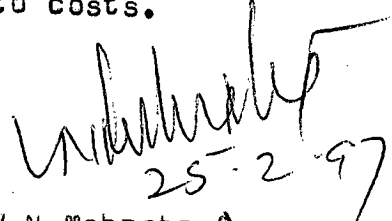
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indigent or the same had no liabilities.

8. Considering the facts and circumstances of ~~case~~, this O.A. should be allowed and suitable direction should be issued to the respondents.

The applicants have mentioned specific posts to which the appointment of applicant no.2 may be made. However, it will not be proper to give any such specific direction.

9. In the result, this application is allowed. Respondent no.2, Chief Postmaster General, Bihar Circle, Patna, is hereby directed to consider the case of appointment of applicant no.2 (Vijay Kumar Singh) to a suitable post on compassionate grounds and pass appropriate orders in respect of the same within a period of three months from the date on which a certified copy of this order is either received by him or is produced before him. No order as to costs.


25-2-97
(V.N. Mehrotra)
Vice-Chairman