

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 979/99

DATE OF DECISION: 09/8/2000

Shri C.D.Bandiwadekar
Applicant.

Shri S.P.Inamdar
Advocate for
Applicant.

Versus

Union of India & 2 Ors
Respondents.

Shri V.S.Masurkar
Advocate for
Respondents.

CORAM:

Hon'ble Shri D.S.Baweja, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library.

(D.S.BAWEJA)
MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:917/99.
DATED THE 9TH OF AUGUST, 2000**

CORAM: HON'BLE SHRI D.S.BAWEJA, MEMBER(A)

1. Shri Chalu Alia Chaloba,
Son of Dhondiba Bandiwadekar,
retired on Invalid Pension,
as B.C.R. Postal Assistant,
Ichalkaranji head Post Office
Dist.Kolhapur 416 115.
2. Shri Manohar Chaloba Bandiwadekar,
residing at Subhash Nagar,
Swami Mala, Behind Thumps up
Godown Near New Kolhapur Octroi Naka,
Ichalkaranji - 416 115. Applicants.

By Advocate Shri S.P.Inamdar

V/S.

1. Union of India through
Chief Postmaster General,
Maharashtra Circle,
Mumbai - 400 001.
2. Post Master General,
Goa Region,
Panaji.
3. Sr. Superintendent Post Offices,
Kolhapur Division,
Kolhapur - 416 003. Respondents

By Advocate Shri V.S.Masurkar

(ORDER) (ORAL)

Per Shri D.S.Baweja, Member (A)

This application has been filed by the Father and son. Applicant No.1 while working as Postal Assistant was retired from service on medical ground from 2/1/98. He was granted invalid pension as per extant rules. Applicant No.1 has a family

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comprising of self, wife and two sons aged 27 and 18 years respectively. The date of birth of the applicant is 16/2/1943. The Applicant No.1 had made a request to the department for Compassionate appointment to his son i.e. Applicant No.2, which the applicant No.1 claims that he is entitled for as per extant rules. The applicant made a representation and received a reply from the department dated 29/1/1999 (page-65 Annexure A-8) wherein it is mentioned that the applicant No.2's case is under process. However, the applicants have not heard anything further from the department and therefore this OA has been filed for following reliefs:-

- a) To direct the respondents that Applicant No.2 is entitled to compassionate appointment.
- b) Considering the indigent condition of the applicant, respondents be directed to expedite the case of the applicant.

2. The respondents have filed a written statement wherein they have brought out that in addition to the request of Applicant No.2 for compassionate appointment, one more application has been received from Shri Uttam C Bandivadekar for Compassionate Appointment. He claims to be son of second wife. It is further stated that since there were two requests for the compassionate appointment, the matter was referred to Postmaster General vide letter dated 8/9/99 and the direction from Postmaster General vide letter dated 10/9/99 was to process the case in

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favour of Shri Uttam C Bandivadekar and forward the same to Postmaster General's office. The respondents in view of this have contended that the said person should be made a party respondent and since he has not been made party respondent, the OA deserves to be dismissed. The Respondents have replied to the averments of the applicant with regard to the merits of the case for grant of compassionate appointment considering the financial position and the indigent condition of the applicant.

3. The applicant has filed Rejoinder Reply contraverting the submissions of the respondents to reiterate what has been stated in the application.

4. Respondents have filed additional statement in reply to the rejoinder reiterating their submissions.

5. Heard Shri S.P.Inamdar and Shri V.S.Masurkar, Learned Counsel for the Applicant and Respondents.

6. From the written statement, it is revealed that the case of applicant No.2 has not been considered as one more person Shri Uttam C Bandivadekar who claims to be son of second wife has also made an application for compassionate appointment. It is further stated that the Postmaster General, Goa has directed to process the case of Shri Uttam C Bandivadekar, the son of second wife. Respondents however have not brought on the record in the written statement as to what is the reason for rejecting the

claim of compassionate appointment of Applicant No.2. In the matter of compassionate appointment, choice lies with the Widow as to who should get the compassionate appointment and whatever the request made by her has to be considered by the department. In case an employee himself is surviving as in the present case, it is for him to decide as to which of his ward should get the compassionate appointment. In the present case, the Applicant No.1 has decided that compassionate appointment should be given to applicant No.2. Therefore the department should have considered the case of Compassionate appointment to Applicant No.2 as per extant rules. In the light of this observation, I am of the considered view that there is no need to make Shri Uttam C Bandivadekar as a party respondent. The present OA can be disposed of with a direction to the respondents to consider the case of the Applicant No.2 for compassionate appointment as per extant rules.

6. In the result of the above, the OA is allowed with the direction to competent authority to consider the request of compassionate appointment for applicant No.2 as made by applicant No.1 as per extant rules. This order will be complied within period of three months from the date of receipt of copy of this order. All contentions on merits are left open and

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7. It is further provided that the applicants are aggrieved by any order passed by competent authority, then they are at liberty to take recourse to legal remedy as per law. No order as to costs.

D.S. Baweja
(D.S. BAWEJA)
MEMBER(A)