

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 82/98

29.10.98

Date of Decision:

R.S.Talekar

.. Applicant

Shri S.P.Kulkarni

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri S.S.Karkera for Shri P.M.
Pradhan

.. Advocate for
Respondent(s)

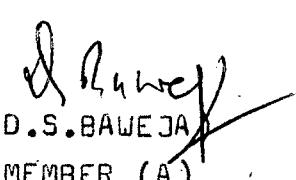
CORAM:

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

The Hon'ble

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?


(D.S.BAWEJA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO.82/98

Proceeded this the 29th day of October 1998

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

Ravindra Shankarrao Talekar
R/at Room No. 135, E.Ward,
Kadam Wadi, Kolhapur.

By Advocate Shri S.P.Kulkarni

... Applicant

Vs.

Union of India through

1. Secretary,
Department of Posts,
Ministry of Communications,
Govt. of India, Parliament
Street, Sanchar Bhawan,
New Delhi.
2. Director General Posts,
Department of Posts,
Ministry of Communications,
Dak Bhawan, 20, Asoka Road,
New Delhi.
3. Chief Postmaster General,
Maharashtra Circle, Old GPO Bldg.,
2nd Floor, Near C.S.T. Central Rly.,
Fort, Mumbai.
4. Senior Superintendent of Post Offices,
Kolhapur Division, Kolhapur.

By Advocate Shri S.S.Karkera for
Shri P.M.Pradhan

... Respondents

ORDER

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

The applicant's father Shri Shankar Laxman Talekar while working as Postman, Rajarampuri Sub-post office under Kolhapur Postal Division met with an accident and was declared medically invalid to perform Government duty. He was allowed to retire on invalid pension as per order dated 31.7.1987. The

(V)

applicant made a request for grant of compassionate appointment to him. This request was rejected as per order dated 26.5.1992. The applicant challenged this order seeking legal remedy through OA. NO. 515/96. This OA. was disposed of as per order dated 14.2.1997 quashing the impugned order dated 26.5.1992 with the direction to the respondents to ^{re}consider the case of the applicant in the context of all relevant rules including Rule 4(e) of C.C.S.(Pension) Rules. The respondents in compliance with this order of the Tribunal have reconsidered the case of the applicant for appointment on compassionate ground and his request has been rejected as per order dated 13.8.1997. Feeling aggrieved by this rejection, the present OA. has been filed on 31.12.1997 seeking the reliefs of setting aside the order dated 13.8.1997 and to direct the respondents to reconsider the case of the applicant again by sending to the screening committee based on the facts laid down in the present OA. as well as in the previous OA. and pass speaking order.

2. The applicant alleges that the screening committee has not considered the case of the applicant as per the directions contained in the order dated 14.2.1997. The committee has again heavily relied upon the consideration of existence of earning member in the family inspite of the fact that the earning member is no longer member of the family of the specific applicant's father and the observations made by the Tribunal in the earlier order dated 14.2.1997. The applicant further submits that the other grounds taken into consideration in rejecting the claim of the applicant with regard to the possession of the

immovable property and no major liability on the father of the applicant are not valid grounds. The applicant states that his father is medically incapacitated and heavy expenses on medical treatment have to be incurred. Further, the immovable property as referred to by the committee is not a property at all as it only comprises of one small room. The applicant, therefore, contends that the decision of ^{by} rejecting his claim the screening committee is arbitrary. Further, the applicant is not responsible for the delay as the respondents have taken more than 4 years in processing the proposal for compassionate appointment.

3. The respondents have opposed the application through written reply. The respondents contend that the screening committee has carefully considered the case of the applicant as per the extant rules governing grant of compassionate appointment as directed by the Tribunal and there is no arbitrariness in the recommendation of the screening committee. The rejection of the claim has been done on valid grounds after careful consideration and a speaking order to this effect has been passed by the screening committee. It is further stated that the screening committee was set up at the Headquarter's level instead of Circle level which normally is required as per the extant rules. The respondents ^{have} again reiterated that the applicant made representation for compassionate appointment after a lapse of more than 2 years after retirement of his father and after taking all aspects into consideration, his request was rejected. Respondents further maintain

that in terms of the judgement of the Hon'ble Supreme Court in case of Haryana State Electricity Board vs. Hakim Singh, 1997 (2) ATJ 665, the department is not bound to consider the case for appointment on compassionate ground after lapse of several years. The respondents make a plea that applicant has not made out any prima facie case and the present application deserves to be dismissed.

4. The applicant has not filed any rejoinder reply.

5. I have heard the arguments of Shri S.P. Kulkarni, learned counsel for the applicant and Shri S.S.Karkera for Shri P.M.Pradhan, learned counsel for the respondents.

6. From the facts brought out earlier, the only short question to be determined in the present OA. is whether the impugned order dated 13.8.1997 has been passed complying with the directions contained in the order dated 14.2.1997 in the earlier OA.NO. 515/96 and whether the grounds assailing this impugned order by the applicant are valid. I have carefully considered the impugned order dated 13.8.1997 vis-a-vis the grounds advanced by the applicant challenging this order. The direction of the Tribunal was to reconsider the case of the applicant keeping in view the relevant rules including Rule 4 (e) of CCS(Pension) Rules. On going through the order dated 13.8.1997, it is noted that this order has been passed by the screening committee at the Headquarter level and it is a detailed order covering all aspects concerning the consideration of compassionate appointment. One ground raised by the applicant is that the consideration of liability

the family and possession of immovable property are irrelevant details and cannot form the basis for examining proposal of compassionate appointment and therefore the decision of the screening committee is arbitrary. I am unable to subscribe to this view of the applicant. The case of the applicant has to be considered taking all aspects into consideration. As held by Hon'ble Supreme Court in several judgements that whole object of granting compassionate appointment is to enable the family to ~~over come~~ the sudden crisis. It is necessary for the department to examine the financial condition of the family while considering the case for appointment. In this connection, it would be relevant to refer to the judgement of Hon'ble Supreme Court in ~~the case of~~ Umesh Kumar Nagpal vs. State of Haryana & Ors., 1994(2) SLR 677, wherein in Para 2 their Lordships have held as under :-

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family."

Keeping in view ~~what~~ is laid down by the Hon'ble Supreme Court in considering the case of the compassionate appointment, I do not find any infirmity with the order of the screening committee. The other ground raised by the applicant is that the fact of existence of earning member has been again taken into consideration by the screening committee inspite of the fact that he is no longer part of the family ~~and~~

the Tribunal had already made observation about this aspect in the earlier order. It is agreed that reference to this aspect had been made in the order of screening committee but this is not the basis for rejecting the claim of the applicant as the financial condition and the liability of the family had been evaluated considering other relevant aspects. I am therefore unable to find any substance in this contention of the applicant that the order by the screening committee has been passed in violation of the direction of the Tribunal in order dated 14.2.1997.

7. The respondents have referred to the judgement of the Hon'ble Supreme Court in the issue of case of Hakim Singh which deals with the consideration of the compassionate appointment after several years after the death of the employee. The plea of limitation had been raised in the earlier OA. ^{also} by the respondents but the same was not accepted by the Bench on the ground that the case of the applicant had been not considered as per the relevant rules. Therefore the question of limitation again raised by the respondents may not be strictly maintainable in the context of the present OA. However, the consideration of the case for compassionate appointment after several years, the time factor ^{is vital} and needs to be kept in focus keeping in view what has been held by the Hon'ble Supreme Court in the case of judgement of Hakim Singh and other several judgements such as Haryana State Electricity Board vs. Naresh Chandra, 1996 SCC(L&S) 816 and Jagdish Prasad vs. State of Bihar, 1996 SCC(L&S) 303.

8. Keeping in view the above deliberations, I am unable to find any merit in the present OA. and the same is dismissed accordingly. During hearing, the counsel for the applicant made a plea that in case the claim of the applicant is rejected, the same should not come in his way of making representation to the higher authorities for reconsideration of his case. Keeping this in view, it is provided that the dismissal of the present OA. will not preclude the department from consideration of the case of the applicant made in the event of representation to the higher authorities. ~~However, rejection of such representation~~ will not give fresh cause of action. No order as to costs.


(D.S. BAWEZIR)
MEMBER (A)

mrj.