

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD. (2)

O.A.No.603/90.

Date of Judgment: 28.1.1992

Between:

Kum. S. Parvathi Devi Applicant

And

1. Union of India, rep. by Secretary, Ministry of Communications, New Delhi-1.
2. Chief Postmaster General Andhra Pradesh Circle, Hyderabad-500 001.
3. Superintendent of Post Offices, Kakinada Division, Kakinada-533004, East Godavari Dist.

Respondents

For the Applicant : Shri T. Jayant, Advocate.

For the Respondents : Shri Naram Bhaskara Rao, Addl. Standing Counsel for Central Government.

CORAM:

HON'BLE SHRI C.J.ROY, MEMBER (JUDICIAL)

X JUDGMENT OF THE SINGLE BENCH DELIVERED BY HON'BLE SHRI
C.J. ROY, MEMBER(J) X

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This is an application filed under sec.14(1)(a) of the Administrative Tribunals Act, 1985 praying for a direction to the respondents to appoint the applicant herein as Postal Assistant on compassionate grounds in relaxation of the Recruitment Rules by declaring the impugned order No.L4/6/WLF/Rectt/SR dt. 11.1.1990 and passed by the Superintendent of Post Offices, Kakinada Division, Kakinada, East Godavari Dist. as illegal, null and void.

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2. The applicant herein is the only daughter of one late Sri S.Rama Rao, Ex-Sorting Postman who died on 28.7.1982 while on duty. In pursuance of his death, the mother of the applicant had submitted a representation dt. 10.9.1984 (Annex.A-2) to the 2nd respondent to consider the case of applicant herein for appointment on compassionate grounds in relaxation of recruitment rules. It was intimated by the 3rd respondent by letter dt. 12.10.1984 that the case of the applicant can be considered only on attaining the majority. The applicant also stated that her mother made a representation dt. 17.7.1986 to the 2nd respondent stating that the applicant herein passed SSC Public Examination in April, 1986 and that she requested for providing financial assistance from the department for prosecuting the studies of applicant by joining Intermediate.

3. The applicant states that her mother by representation dt. 5.9.1988 requested the 3rd respondent the consider the case of the applicant for appointment as Postal Assistant on compassionate grounds as she would attain the age of 18 years on 18.1.1989 and the same was followed by a reminder dt. 8.2.1989. Thereafter, 3rd called for the copies of educational qualifications of the applicant herein for considering her appointment on compassionate grounds. The applicant also stated that the 3rd respondent informed that the applicant is not eligible for the post of Postal Assistant as she did not pass Intermediate examination and offered the post of Postman or Group-D cadre. In pursuance of the said offer by 3rd respondent, the mother of the applicant by letter dt. 4.3.1989 requested the 3rd respondent to appoint the applicant as Postmen or as departmental stamp vendor.

4. The applicant averred that her mother by letter dt. 28.6.1989 (Annex.A.10) informed the 3rd respondent that the applicant passed the Intermediate examination and requested to appoint her as Postal Assistant on the basis of said qualification. The applicant alleges that the respondents informed that her case would be considered according to turn as and when vacancies arise in the eligible cadre in the quota of relaxation of Recruitment, but the applicant was informed by the letter dt. 8.1.1990 of 2nd respondent that her representation for appointment on compassionate grounds was carefully considered and was rejected by the circle selection committee, without mentioning any reasons.

5. The applicant alleges that subsequently, her mother represented the matter on 6.2.1990 and 31.3.1990, but did not receive any orders. The applicant also averred that the action of respondents in issuing the impugned order is in violation of instructions laid down in letter No. 24/157/78-SPB I dt. 14.7.1978 and also O.M.No.14034/1/77-Estt(D) dt.25.11.1978. Hence filed this O.A.

6. The respondents filed their counter affidavit and opposed the application, while admitting the facts, on the ground that the number of posts falling vacant each year is far and few, the extent to which compassionate appointments can be made is very much restricted, and that the procedure puts a constraint on filling up of the vacancies exclusively for compassionate appointments. The respondents averred that the compassionate appointments are to be considered in such cases where the family of the deceased is in dire state and there are indigent circumstances. The respondents

further averred that there are no conspicuous indigent circumstances for the family of the applicant as they were given pension benefits viz. pension, DCRG, GPF and CGEIS, and also that the committee meant for the said purpose considered the case of the applicant and came to the conclusion that the family was not in indigent circumstances and did not accept the case. The respondents alleges that no ward of the deceased/retired Government servant can claim the Government job as a matter of right and each case is decided purely on merits. It is also stated that there are good number of applications from the dependants of the Deceased officials and also officials retired on invalid pension requesting job to their wards in the Department and that they are not able to provide jobs even in some of the more deserving cases due to non-availability of adequate vacancies, and desired the application be dismissed.

7. The applicant filed annexures Annex.A-1 to A-17 along with the application, and a Manual on Establishment & Administration for Central Government Offices wherein the procedure/instructions are given in Chapter 25.

8. I heard the learned counsel for applicant Shri T.Jayanth, and learned counsel for respondents Shri Naram Bhaskara Rao and perused the records carefully.

9. In Swamy's Complete Manual on Establishment & Administration for Central Government offices under Chapter-25, at page-214 with regard to compassionate appointments in P & T Department it is stated that -

"(1) Delegation of powers and constitution of committees:

In pursuance of the revised policy.....
 to make compassionate appointments of sons/daughters/near relatives of P&T employees who die in harness and leave the family in indigent circumstances to Heads of circle etc. declared as Heads of Department under S.R.2(10) if more than five years have not elapsed between the date of application for employment and the date of death of the employee.
 For this purpose in each circle a committee consisting of..... should be constituted.
 The committee should scrutinise all such cases and decide them keeping in view guidelines provided by the Deptt. of Personnel & A.R. Such appointments must conform to the provisions as regards eligibility etc. of the relevant Recruitment Rules except the condition of merit and nomination by Employment Exchange. The cases requiring relaxation of educational qualifications and age limits and in which there is already one earning member in the family, if recommended by the committee will continue to be referred to the Directorate as it present. Similarly, the cases in which more than five years have elapsed between the date of death and the date of application will, if recommended by the committee, be also referred to the Directorate. But in so doing it should be borne in mind that the main objective of such compassionate appointment is largely related to the need for immediate assistance to the bereaved family."

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10. The learned counsel for respondents, in support of his contentions, cited a decision reported in 1991(5) SLR 404 - (CAT, Patna) - Chintamani Debi & another Vs. Employees State Insurance Corporation and others wherein it is held -

"if the respondents arrived at the conclusion on an assessment of the relevant considerations as per the instructions that the family is not in distress and hence the claim for compassionate

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appointment is not to be allowed, the respondents cannot be faulted. The decision on no account can be said to be arbitrary or illegal."

On going through the decision, I am of the view that it is of no assistance to the respondents herein. That was a case where the deceased has two sons, and out of them the first was employed as a Medical Officer. But in the instant case, the applicant herein is the only daughter of deceased employee and that no earning member in the family.

11. The learned counsel for respondents also cited the decisions of this Tribunal in (i) O.A.No.973/89, (ii) O.A.No.168/90, and (iii) O.A.No.520/90. ~~The applicants~~ therein were never offered any post, but the applicant in the instant case was offered for the cadres of Postman or Group-D. Therefore, the said citations are not ~~of much~~ concern here.

12. The fact is that the initial appointment of Postman offered to the applicant was denied. Besides, mere fact of pension provided to the wife of the deceased is also not totally absolves the respondents from giving any suitable appointment on compassionate grounds in view of indigent circumstances. When the respondents offered the post of Postman to the applicant, instead of accepting immediately, a letter was addressed stating that the applicant passed Intermediate examination and that she may be given the post of Postal Assistant. Instead of accepting the offer of the respondents, a counter proposal was made and in the result the only daughter of deceased is put to lack of any job.

12. Under the circumstances, the respondents are directed to consider the case of the applicant for

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appointment to any eligible post, if vacant, as per rules, within three months from the date of communication of this order. With these observations, the application is disposed-of thus no order as to costs.

Dated: 28-1-1991

Ansley
(C.J. ROY)
MEMBER (J)

grh.

8/2/92
Deputy Registrar (J)

To

1. The Secretary, Union of India,
Ministry of Communications, New Delhi-1.
2. The Chief Postmaster General,
Andhra Pradesh Circle, Hyderabad-1.
3. The Superintendent of Post Offices,
Kakinada Division, Kakinada-533 004, East Godavari Dist.
4. One copy to Mr.T.Jayant, Advocate CAT.Hyd.Bench.
5. One ~~spare~~ copy to Mr.N.Bhaskar Rao, Addl. CGSC CAT.Hyd.Bench.
6. One spare copy.

pvm

15/1/92
Ansley
8/2/92

~~TP~~
TYPED BY
CHECKED BY

10/2
COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V.C.

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :
M (JUDL)

AND

THE HON'BLE MR. C.J. ROY : MEMBER (JUDL)

DATED: 28-1-1992

ORDER/JUDGMENT:

R.A/C.A/ M.A.No.

in

O.A.No. 603 | 90 ✓

T.A.No.

(W.P.No.)

Admitted and interim directions issued.

Allowed

Disposed of with directions. 26-2-92

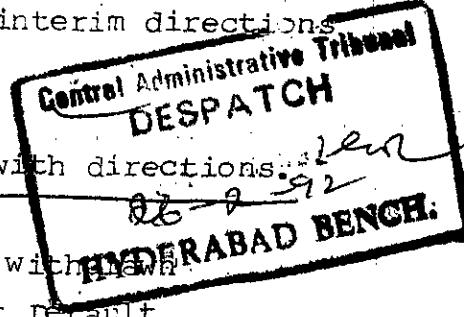
Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.



pvt.