

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH ::
AT HYDERABAD.

O.A.No.923/91.

Date of Decision: 30.4.91

Between:

M.N.Raghuveer

..

.. Applicant

Vs.

The Union of India, represented by

1. The Secretary to Govt.,
Deptt. of Posts, New Delhi.
2. The Chief Postmaster General,
Hyderabad.
3. The Director of Postal Services,
Kurnool.
4. The Superintendent of Post Offices,
Kurnool.

.. Respondents

For the applicant : Sri K.S.R.Anjaneyulu, Advocate.
For the respondents : Sri Naram Bhaskara Rao, Addl.
Standing Counsel for Central Govt.

CORAM:

HON'BLE SRI C.J. ROY, MEMBER (JUDL.)

{JUDGMENT OF THE SINGLE BENCH DELIVERED BY HON'BLE SRI C.J.ROY,
MEMBER (J) }

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This application is filed under sec.19 of the Administrative Tribunals Act, 1985 seeking for a direction to call for the records resting with the case and declare the order communicated under Supdt. of Post Offices, Kurnool bearing No.B4/Rectt/Relax/MNR dt. 22-4-1991 as arbitrary, discriminatory and untenable in law and to further direct the respondents to consider the applicant for appointment to any suitable Group 'D' post.

2. The applicant's father died on 4-10-1976 while working as Postman in Adoni H80 leaving behind him his wife, two sons and two daughters including the applicant herein. As on the date of death all the children were minors. The applicant states

that they belong to ST community and that the family was left in distress and indigent circumstances having no means of livelihood excepting meagre pension of Rs.375/-. The applicant stated that his mother being an illiterate was compelled to undertake hard labour and menial work to maintain the family members. It is averred that the mother of the applicant was informed that appointment on compassionate grounds can be considered only when the son attains 18 years age and therefore had submitted a representation on 17-12-1986 seeking compassionate appointment for the applicant herein. The applicant averred that 4th respondent obtained the particulars of the family and verified as to whether the family of the applicant continues to be in distress with untold hardship and unable to maintain family. The applicant's mother again made a representation on 1-1-1988 and 12-7-1989. The applicant stated that in pursuance thereto 4th respondent informed by letter dt. 7-2-1990 stating that the matter had been submitted to the Chief Post Master General for consideration. The applicant averred that 4th respondent by letter dt. 22-4-1991 informed that the application was received more than 5 years after the death of the official and employment at this stage would not serve the purpose of providing relief immediately after the death of the bread earner. It is stated that having * aggrieved by the said rejection, the applicant submitted a representation dt. 7-8-1991 to the Secretary to Government, Deptt. of Posts, New Delhi explaining the full circumstances of his family for being considered fairly, justly and objectively. The applicant alleged that the 4th respondent had recommended his case to Circle office having considered the facts and circumstances of the case. The applicant also averred that there is no earning member in the family and that his mother who had so far maintained them had bedridden, and in view of the said fact the contention of the respondents that the appointment could not serve the purpose of providing relief is wholly unsustainable

The applicant alleged that the aspects involved in the matter are not considered in the right perspective and objectively. It is further alleged that the said rejection of representation is discriminatory and defeating the very purpose of providing relief to a family in distress when the family is found to be in distress.

3. The respondents filed counter affidavint and countered the allegations made in the application. The respondents admit the facts stating that the father of the applicant died while in service on 4-10-1976 and that his wife had represented seeking compassionate appointment for the applicant herein on 10-2-1987 but the Circle Selection Committee rejected the same which was communicated by proceedings dt. 18-4-1991. The respondents state that their action in rejecting the applicant's case for compassionate appointment is not arbitrary, discriminatory as alleged by the applicant. It is stated that the applicant's mother was paid DCRG of Rs.1725/- and Insurance amount of Rs.2,000/-. The respondents averred that the Circle Selection Committee after considering all aspects of the case had rejected the matter. The respondents state that the vacancies that would be available for appointment under relaxation of recruitment rules every year would be meagre and this places restrictions on the respondents and appointments are to be made on very selective basis. The respondents justify their action and desire the application be dismissed.

4. The applicant filed copy of representation dt. 17-12-1986 submitted by his mother to the respondents, and subsequent reminders dt. 1-1-1988 and 12-7-1989, (Annex.I, 2 and 3 respectively), Letter dt. 7-2-1990 of 4th respondent informing the applicant's mother that the matter is submitted to the 2nd respondent, Representation dt. 14-9-1990 of the applicant submitted to the 3rd respondent, Letter dt. 22-4-1991 of 4th respondent addressed to the applicant informing him that

the Circle Selection Committee rejected the case for compassionate appointment of applicant for the reasons mentioned therein, and Representation dt. 7-8-1991 addressed to the 1st respondent herein by the applicant. The applicant's counsel also referred the instructions issued by the Government of India, Deptt. of Personnel & Training vide O.M.No.F.14014/23/87 Estt.(D) dt. 17-2-1988.

5. I heard Sri K.S.R.Anjaneyulu, learned counsel for the applicant and Sri Naram Bhaskara Rao, learned counsel for respondents and perused the records carefully.

6. It is a fact that the mother of the applicant never approached seeking appointment on compassionate grounds for herself, but approached with a request to provide compassionate appointment to the applicant herein in the year 1986 i.e. after a period of about 10 years after the death of the employee. As on the date of death of the employee she was eligible to approach the respondent for appointment on compassionate grounds but she had not approached for herself. It can also be seen that as on the date of death all the children of the employee were minors. She waited till her son to become major and sought compassionate appointment on 17-12-1986. The applicant admittedly attained majority on 4-9-1985. It can also be seen that the mother who had maintained all these years had become bed-ridden and no bread earner in the family. In the said circumstances the applicant has to maintain his mother, two sisters and a brother, with a meagre pension what ~~xxx~~ they are being paid. The family has also no substantial immovable/movable properties. And that no substantial terminal benefits are received as stated by the respondents in their counter.

7. It is seen from the records that the applicant himself made a representation dt. 7-8-1991 to the Secretary to the Government, Deptt. of Posts, New Delhi in pursuance of the

communication dt. 22-4-1991 issued by the 4th respondent rejecting the claim of the applicant for compassionate appointment. The said representation is in detail as to the facts and circumstances under which the family of the applicant is placed. No material is placed before me which shows that the said representation is dealt with by the concerned authority and disposed ~~of~~. The applicant presented this application on 25-9-1991 and heard finally on 23-4-1992. The main object of providing compassionate appointments to the family members of the Government servants who dies in harness etc. is to provide immediate need of assistance when there is no other earning member in the family. The delay in approach as contended by the learned counsel for respondents cannot be ignored while considering the case of the applicant for appointment on compassionate appointment. It is, therefore, pertinent to mention herein paras-7 & 11 of O.M.No.F.14014/23/87-Estt.(D) dt. 17-2-1988 which states that -

"para-7: Belated requests for compassionate appointments:

Ministries/Departments can also consider the requests for compassionate appointment even where the death took place long ago, say five years or so. While considering such belated requests it should be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness. The very fact that the family has been able to manage somehow all these years should normally be adequate proof to show that the family had some dependable means of subsistence. Therefore, examination of such cases calls for a great deal of circumspection. The decision in those cases may be taken at the level of Secretary only.

para-11: General - No age relaxation from the prescribed minimum age of 18 years for appointment of wards on compassionate grounds - It has been decided that if an employee dies while in service or is retired on invalid pension and there is a ward below 18 years of age and who alone is available for employment, he should apply for a job as soon as he attains the age of 18 years. The person below the age of 18 years should not be considered for appointment on compassionate grounds. The general instructions referred to in O.M.No.14014/6/86-Estt.(D), dt. 30-6-1987, may be treated as amended to this extent. The upper age limit may, however, be relaxed as hitherto as per the orders already existing on this subject

The compassionate appointment is not a vested right, but in view of the facts and circumstances of this case, on the strength of the above referred O.M. and also in view of the fact that the respondents have not placed any material showing that the competent authority viz. the Secretary to Government of India, as stated supra, has taken a decision in this case or not, I hold that a decision on the belated request for compassionate appointment has to be taken at the level of Secretary only.

8. Under the circumstances, the respondents are directed to place the matter before the Secretary who is competent authority, to consider and dispose of the case of the applicant for appointment on compassionate grounds for any suitable post against the existing vacancies or that would arise in future by taking into consideration of the facts and circumstances of the applicant and as explained by him in his representation dt. 7-8-1991, within three months from the date of receipt of this order. With these observations the O.A. is disposed of with no order as to costs.

History
(C.J. ROY)
Member (J)

Dated 30th April, 1992.

L
Deputy Registrar(J)

grh.

To

1. The Secretary to Govt., Union of India, Dept. of Posts, New Delhi
2. The Chief Postmaster General, Hyderabad.
3. The Director of Postal Services, Kurnool.
4. The Superintendent of Post Offices, Kurnool.
5. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
6. One copy to Mr.Naram Bhaskar Rao, Addl. CGSC.CAT.Hyd
7. One spare copy.

pvm.

*6/10/92
pvm*

(2)
TYPED BY

COMPA

RED BY

CHECKED BY RM
25-

AP

PROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE

MR. R. BALASUBRAMANIAN: M(A)

AND

THE

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

AND

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

Dated: 30 - 6 - 1992.

ORDER / JUDGMENT

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

in

O.A.No.

923/91 ✓

T.A.No.

(W.P.No.)

Admitted and interim directions
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.

