

(92)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA.1011/93

date of decision : 3-3-94

Between

L. Jayalakshmi : Applicant

and

1. The Post Master General
Andhra Circle
Hyderabad

2. The Superintendent of Post Offices
Srikakulam District
Srikakulam

3. The Sub-Post Master
Naupada
Srikakulam-District : Respondents

Counsel for the applicant : K. Subrahmanyam
Advocate

Counsel for the respondents : V. Bhimanna
SC for Central Government

CORAM

HON. MR. T. Chandrasekhara Reddy, Member (Judicial)

DSR/29

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(23)

Judgement

(As per Hon. Mr. T. Chandrasekhara Reddy, Member (Judl))

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to appoint the applicant in any of the posts for which the applicant is eligible on compassionate grounds and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. The facts giving raise to this OA in brief are as follows :

One Sri Phalguna Rao, was working as Sub-Post Master, Naupada, ~~in~~ Srikakulam district. While in service he died on 22-7-1990. By the time the applicant died he had put in 24 years and nine months of service in the Department. The said Phalguna Rao at the time of his death left behind him his wife and five daughters and mother. The said Phalguna ^{born} Rao is said to have ~~joined~~ service in 1944. But for his untimely death he would have retired from ~~his~~ service in the year 2002. Thus the said Phalguna Rao had 12 more years of service at the time of his death.

3. The applicant who ^{had} already pointed out ~~is~~ the widow of the said Phalguna Rao, has passed 7th class. She put in a representation dated 8-12-1990 for providing her a suitable job on compassionate grounds. The Circle Selection Committee considered the case of the applicant and rejected her request on the ground that the applicant ~~has~~ had received a large sum towards death benefits and ~~xxxxxx~~ the pension that she was receiving on compassionate grounds. She could not be appointed. So, in view of the rejection of the Circle Selection Committee of the representation of the applicant to provide her a suitable job on compassionate

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~~grounds~~, the applicant had approached this Tribunal for the relief as already indicated above.

4. Counter is filed by the respondents opposing this OA.

5. The applicant's family had been paid a sum of Rs.1,92,343/- towards DCRG including GPF, PLI, CGEIS, leave encashment and welfare fund after the death of the said Phalguna Rao.

According to the respondents the applicant is being paid a family pension of Rs.1615 (Rs.820+795 as relief thereon) every month. So, it is the contention of the respondents that the family of the applicant has adequate means and so the applicant is not entitled for any appointment on compassionate grounds.

6. We have heard today Mr. K. Kanakaraju, for the applicant and Sri V. Bhimanna, Standing counsel for the respondents.

7. The file of the applicant relating to compassionate appointment is made available by Mr. V. Bhimanna, SC for the respondents. The said file is perused. A perusal of the file indicates that the Senior Superintendent of Post Offices on the application of the applicant had recommended her for Group-D post on compassionate grounds. The recommendation of the Superintendent of Post Offices does not have binding effect on the Circle Selection Committee. It is only the Circle Selection Committee that is the competent body to take a decision with regard to compassionate appointment. Now it has got to be seen whether the action of the Circle Selection Committee in rejecting the claim of the applicant for appointment of the applicant on compassionate grounds is valid.

8. The following facts are not in dispute :

i) The said Phalguna Rao had 12 years of service more at the time of his death; and

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ii) The said Phalguna Rao at the time of his death had left behind him his mother, his widow and five unmarried daughters, out of whom three are minors. During the course of the hearing of this OA, Sri Kanakaraju, counsel for the applicant pleaded that the eldest daughter of the said Phalguna Rao is since married and that a considerable amount had been spent for her marriage expenses and the other amount that is left would be hardly sufficient to meet the education of the other children and also to perform their marriages. He also contended that the family is also burdened with the mother of Phalguna Rao, who is to be maintained by the applicant and unless the income of the family is substituted by providing to the applicant herein with an appointment on compassionate grounds that the family will not be in a position to survive and have existence and so in view of this position the applicant has to be provided with an appointment on compassionate grounds.

9. As already pointed out above, death benefits the family had received would come to Rs.1,92,343/- The surviving members of under Hindu Law being Class-I heirs of the said Phalguna Rao, will be entitled to roughly a sum of Rs.28,000 each if all of them are to share the said amount under the provisions of Hindu Succession Act. So the amount each of the family member gets as per their share would be as already pointed out is Rs.28,000, which will be quite a meagre sum. The file does not disclose that apart from the benefit of Rs.1,92,343, the family had received, ^{whether} ^{which} the family has any other source of income. The entire family has to survive on the left over amount of Rs. 1,92,343 after meeting the marriage expenses of the first daughter and with the assistance of that amount the marriage of the other four daughters have got to be performed and their education also has got to be looked after and the mother of

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the said Phalguna Rao has also got to be maintained. It appears to us that it is difficult for the applicant to maintain the family with that amount and also to perform marriage of four daughters and also to educate the minor children.

10. So, in view of the facts and circumstances, we do not have any doubt to come to the conclusion that the family of the applicant is in distress and indigent circumstances and the family will not be able to survive unless the applicant's family is provided with an appointment on compassionate grounds. The Circle Selection Committee has not taken into consideration the size of the family and the commitments the family has got in rejecting the claim of the applicant for compassionate appointment. The Circle Selection Committee had been completely swayed in coming to the conclusion that the applicant cannot be provided appointment on compassionate grounds purely keeping in mind the amount the applicant's family had been paid after the death of, said Phalguna Rao as the family pension which the applicant is receiving. The approach by the Circle Selection Committee does not appear to be correct. The Circle Selection Committee ought to have taken into consideration the commitments the applicant has toward the aged mother of Phalguna Rao, and towards the unmarried daughters. Ofcourse the applicant is receiving a pension of Rs.820 and Rs.795 towards relief thereon, in all, a sum of ----- ~~----- the date of death of Phalguna Rao i.e. from 22-7-1997, under pension rules the applicant will be entitled only to half of the basic pension now she is receiving. It is likely doubtful whether the applicant would be free from all obligations and commitments to her daughters that may be living with her and towards the mother-in-law by 22-7-1997.~~

11. So, we are of the opinion in view of the facts and circumstances of the case that the action of the Circle Selection Committee in refusing to provide the applicant appointment on compassionate grounds does not appear to be valid. It is not been prepared for those to be provided appointment on compassionate grounds. If such waiting list is there then it will be said waiting list as on today and to provide her in her turn an appointment on compassionate grounds if required under relaxation of the rules, in Group-D posts.

12. Hence, the respondents are hereby directed to place the applicant at the bottom of the waiting list with regard to compassionate appointment as on today if one such list is maintained by the respondents, and to provide appointment to the applicant in Group-D post on compassionate grounds, in relaxation of recruitment rules. If no such waiting list is maintained then we direct the respondents to provide the applicant the same post as mentioned above in relaxation of the recruitment rules in the next available vacancy in the compassionate appointment quota.

13. The OA is disposed of accordingly. The parties shall bear their own costs.

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(T. Chandrasekhara Reddy)
Member (Judl.)

Dated : March 3, 1994
Dictated in the Open Court

Andhra Pradesh
Deputy Registrar (J)CC

To

1. The Postmaster General, Andhra Circle,
Hyderabad.
2. The Superintendent of Post Offices,
Srikakulam Dist, Srikakulam.
3. The Sub-Postmaster, Naupada, Srikakulam Dist.
4. One copy to Mr. K. Subrahmanyam, Advocate, Advocates' Assn.,
High Court of A.P. Hyderabad.
5. One copy to Mr. V. Bhimanna, Addl. CGSC. CAT. Hyd
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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