

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 08.12.2004

OA 09/2004

Girwar Singh s/o Late Shri Subh Karan r/o Village Baladhana, Post Rani Gaon via Choti Chatu, District, Nagaur (Raj).

... Applicant

Versus

1. Union of India through Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, Govt. Of India, New Delhi.
2. Sr.Supt. RMS, Department of Posts, Jaipur Division, Jaipur.

... Respondents

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

HON'BLE MR.A.K.BHANDARI, MEMBER (A)

For the Applicant

... Mr.Satya Prakash, proxy counsel
for Mr.Ajay Gupta

For the Respondents

... Mr.N.C.Goyal

O R D E R (ORAL)

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following relief :

"i) by an appropriate order or direction the impugned order dated 12.11.2003 (Ann.A/8) issued by respondent No.2 may kindly be declared null and void and be quashed and set aside.

ii) by further appropriate order or direction the impugned action of the respondents, whereby the applicant has been denied for appointment on compassionate grounds, may kindly be quashed and set aside and they may be directed to give appointment to the applicant on compassionate grounds with all consequential benefits."

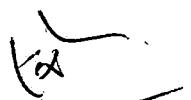
2. Brief facts of the case are that applicant's father while working as Sorting Assistant in SRO, RMS, Bharatpur, passed away on 25.5.2002 due to serious heart attack. Widowed mother of the applicant then applied for compassionate appointment of the applicant on 9.7.2002. This was rejected vide impugned order dated 12.11.2003 (Ann.A/8) on the ground that financial condition of the family was not so indigent as to justify compassionate appointment. In this order it is also stated that ex employee had left widow, one married son and one married daughter, she was getting family pension of Rs.3125/- + DR per month, family has

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received terminal benefits to the tune of Rs.3,77,791/-, family has own house to live in and landed property of 9 Bighas from which income of Rs.1200/- is derived per annum. That the case of the applicant was considered by the Circle Relaxation Committee (CRC) on 20.10.2003 in light of extent rules and guidelines and while taking into consideration the vacancy position of the cadre of Postman for which the applicant was eligible, but the CRC did not recommend the case. In the application it is stated that in fact there was no earning member in the family, applicant belongs to SC, that married sister of the applicant is a widow and living alongwith mother and not with her in laws, that so called own house is nothing but two incomplete rooms and that no agricultural land is owned by the family. Annexures A/2 to A/5 are attached in proof of these averments. It is further stated that a large amount i.e. Rs.1,30,000/- had to be paid back to the Government on account of loans left unpaid by the deceased employee, in proof of which Annexures A/6 and A/7 are attached. That while rejecting compassionate appointment no opportunity of hearing was given.

3. In the grounds it is stated that decision of the respondents is arbitrary and against the spirit of the rules because applicant has the right to compassionate appointment.

4. Respondents have filed a detailed reply giving brief history of the case. Facts regarding application and meeting of the CRC are admitted and the position of rules based on OMs dated 9.10.98, 3.2.99, 20.12.99, 28.12.99 and 24.11.2000 is explained and their photo-copies have been enclosed as Ann.R/1 to Ann.R/8. It is further stated that the scheme stipulates giving compassionate appointment to provide immediate assistance to the family of government servant dying in harness but the same is to be based on indigent circumstances of the family and the scheme is not intended to ensure government job for each and every case as a right. Also, while considering cases comparative circumstances of



all available applications have to be judiciously examined to decide highest indigency and recommendations have to be made only for the most deserving cases limited to the number of vacancies available for compassionate appointment which according to rules is to the extent of 5% of the direct recruitment vacancies within the year of consideration. The Screening Committee in this case had approved 12 posts of Group-D cadre, 5% of which i.e. one vacancy was thus earmarked for compassionate appointment and the most deserving case after comparative objective assessment was recommended. The case of the applicant was considered by the CRC on 20.10.2003 alongwith other cases and was not found most indigent and was, therefore, rejected. Copy of the minutes of the CRC dated 20.10.2003 is enclosed as Ann.R/9. The decision of CRC was conveyed to the applicant vide letter dated 12.11.2003 (Ann.A/8). It is also stated that the applicant is 31 years of age and having his own family i.e. wife, one son and two daughters due to which reason he cannot be said to be a dependent.

5. These facts have been elaborated in parawise reply. Respondents have also attached a copy of decision of coordinate Bench at Jodhpur in OA 109/2003, Om Prakash v. Union of India, decided on 18.7.2003, in which it is held that applicant who has completed more than 25 years of age at the time of death of his father cannot be considered as dependent for grant of compassionate appointment. Regarding loan's repayment by the bereaved family from the retiral benefits, it is stated that if any amount of loans was due towards the father of the applicant during his life time from the department, the same had to be deducted and this fact does not in any way affect the retiral benefits drawn by the family after death of the bread winner. It is also clarified that the case of the applicant was not rejected only on the ground of terminal benefits received by the mother of the applicant but it was in fact carefully considered under the instructions of the DOPT, as mentioned above and was rejected due to limited vacancies. That other cases under scrutiny by



the CRC were found more indigent than the case of the applicant and, therefore, applicant's case had to be rejected.

6. Replying to the grounds, allegation of arbitrariness and non-application of rules is stoutly denied and the age of the applicant becoming a factor responsible for barring him for compassionate appointment is reiterated.

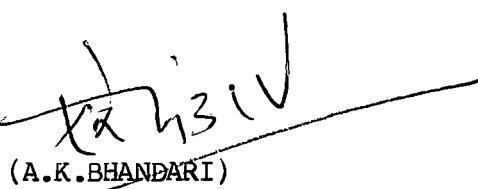
7. Applicant has filed a detailed rejoinder, in which his pleadings as per application are reiterated. However, allegation of discrimination is added by stating that cases less indigent than applicant have been favourably considered by the CRC.

8. Due to repeated non-appearance of the counsel for applicant after filing of rejoinder and even today although in the jimny order dated 14.10.2004 it was clearly stated that the pleadings are complete and no further adjournment will be granted, request of the proxy counsel for adjournment was rejected. Proxy counsel for the parties were, however, heard at length and the application was pronounced as dismissed on two grounds, firstly; the age of the applicant being more than 31 years, which according to decision of Jodhpur Bench of this Tribunal in OA 109/2003 (Om Prakash v. Union of India) bars him for compassionate appointment and secondly; close examination of the minutes of CRC meeting held on 20.10.2003 in which vacancies shown for consideration in Group-D posts was one and the comparative indigency of the applicant mentioned at internal page-6 of the minutes is definitely less than Shri Jagdish Athwal who was considered for Group-D post of Postman. His details are mentioned on internal page-9 of the minutes. Whereas applicant's deceased father was due for superannuation on 31.5.2006 the date of superannuation of deceased father of Shri Jagdish Athwal was 2015, whereas applicant's father left behind widow, one married son and an unmarried daughter Shri Jagdish Athwal's father left behind widow, three

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unmarried sons and one unmarried daughter, although both deceased employees have their own houses, applicant's mother is getting family pension of Rs.3125/- + DR, Shri Jagdish Athwal's mother is getting family pension of Rs.2750/- + DR. In these circumstances, the applicant definitely held lesser claim for compassionate appointment than Shri Jagdish Athwal.

9. Due the reasons stated above, the OA is dismissed with no order as to costs.


(A.K.BHANDARI)

MEMBER (A)


(M.L.CHAUHAN)

MEMBER (J)