

17

17/08/2011
O.A. 11/2009

Present: Mr. C.B. Sharma counsel for the applicant.
Mr. B.K. Pareek proxy for
Mr. T.P. Sharma counsel for the respondents.

This case has been listed before Deputy Registrar
due to non-availability of Division Bench. Let the matter
be placed before the Hon'ble Bench on 08/09/2011.



(Gurmit Singh)
Deputy Registrar

✓
W

08/09/2011 [O.A. No. 11/2009]

Mr. C.B. Sharma, Counsel for applicant.
Mr. B.K. Pareek, Proxy Counsel for
Mr. T.P. Sharma, Counsel for respondents.

Heard.

The O.A. is disposed of by a
separate order on the separate
sheet for the reasons recorded
herein.

K. S. Rathore

Anil Kumar
[Anil Kumar]
Member (A)

[Justice K.S. Rathore]
Member (J)

17/08/2011

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 8th day of September, 2011

Original Application No.11/2009

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Vishnu Prasad Gupta
s/o Late Shri Babu Lal Gupta,
r/o Village and Post. Hathodli (Khirani),
District Sawai Madhopur, aspirant for
appointment on compassionate grounds
on the post of Gramin Dak Sevak Branch
Post Master, Hothodli (Khirani)
Branch Post Office.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India through
its Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication and
Information Technology,
Dak Bhawan,
New Delhi.
2. Chief Post Master General,
Rajasthan Circle, Jaipur.
3. Superintendent of Post Offices,
Sawai Madhopur Postal Division,
Sawai Madhopur.

.. Respondents

(By Advocate: Shri B.K.Pareek, proxy counsel for Shri Tej Prakash Sharma)

O R D E R (ORAL)

This is second round of litigation. Earlier the applicant has preferred OA No.221/2007 before this Tribunal which was disposed of vide order dated 17th October, 2008. In compliance of the order dated 17th October, 2008, case of the applicant for compassionate appointment was reconsidered by the Circle Relaxation Committee (CRC). The CRC after objective assessment of the financial condition and liabilities of the family, did not find the family in indigent condition and hence rejected the same vide impugned order dated 28.11.2008, which is under challenge in this OA. The CRC while rejecting case of the applicant observed as under:-

".... The case of the applicant has therefore been reconsidered by the CRC as per direction of Hon'ble CAT Bench Jaipur dated 17.10.2008. After carefully examination of the case, the CRC found that the case of the applicant is not in indigent condition as the family has own pucca house to live in. Its value is Rs. 1,00,000 (One Lac). The family has 3 Bigha 2 ½ Biswa land at village Hathdoli (Sawaimadhopur). Two elder sons of the deceased who are qualified upto VIIth class has not applied for their appointment on compassionate grounds. Both are doing business at Hathdoli and Bonli Town. There is no heavy liabilities in the family like marriage of daughter and education of minor children. There is also income of Rs. 22,000/- per annum from agricultural land.

In view of the financial condition of the deceased family and liabilities, the case of the applicant is not found in indigent condition hence again rejected after



reconsideration as per direction of Hon'ble CAT Bench Jaipur given in OA no.221/2007 on dated 17.10.2008."

2. The submissions made on behalf of the respondents is that case of the applicant was reconsidered by the CRC for compassionate appointment as per the provisions of the Scheme for Gramin Dak Sevaks and the instructions issued by the Department of Personnel and Training from time to time. The CRC found that the family has no liability of education of minor children and marriage of daughters. All three sons of the deceased employee are major and they cannot be said to be dependent as two of them are running business shops. Hence, after objective assessment of the financial condition of the family, it CRC did not find the family in indigent circumstances.

3. We have considered the rival submissions of the respective parties and perused the material available on record as well as the ratio decided by the Hon'ble Supreme Court in Haryana State Electricity Board vs. Naresh Tanwar and Anr., 1996 SCC (L&S) 816 reported at 1996 SCC (L&S) 816 wherein the Hon'ble Supreme Court having considered the decision in the case of Umesh Kumar Nagpal observed that compassionate appointment cannot be granted after a lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial



problem being suffered by members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad's case, it has also indicated that the very object of appointment of dependent of deceased employee who dies in harness is to relieve the immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years.

4. Applying the ratio decided by the Hon'ble Supreme Court to the present case, admittedly, father of the applicant expired on 31.3.2007 and family of the deceased has able to maintain and as per assessment of financial condition of the family, the CRC did not find the family in indigent condition. Therefore, as per principle as laid down by the Supreme Court in the case of Naresh Tanwar (supra), it is evident that compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate appointment cannot be claimed and offered after a lapse of time and after the crisis is over. The very fact that family has survived for a considerable long period apparently shows that family has pulled on without any difficulty. Thus, according to ratio decided by the Hon'ble Supreme Court, the applicant is not entitled for appointment on compassionate ground.



5. Consequently, in view of the observations made hereinabove, we find no merit in this OA and the OA being bereft of merit deserves to be dismissed which is hereby dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K.S.Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/