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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT JAIPUR BENCH
JAIPUR.

O.A.358/95

Date of order: 18.2.1997

Chhitar Mal Meena son of Shri Rajod
Mal Meena, r/o Gudha Bassi, village
Bassi, Tehsil Bassi (Jaipur).

: Applicant

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, State of Rajasthan, Jaipur.
3. The Senior Superintendent, Post & Telegraph, Jaipur City Division, Jaipur.

: Respondents

Mr. Amitabh Bhattacharya, counsel for the applicant
Mr. M. Rafiq, counsel for respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

The applicant Shri Chhitar Mal Meena has approached this Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 to quash and set-aside the impugned letter/order dated 2.2.1995 (Annex. A/6) issued by respondent No.3 with a further direction to the respondents to consider the matter of his appointment on compassionate ground and to give him a suitable employment in place of his deceased father.

2. Facts leading to this application are not in dispute. Applicant's father Shri Rajod Mal Meena expired on 7.6.1993 (Annex.A-1) while he was in service with the respondent No.3 on the post of Chowkidar. He left behind him his widow, two sons, two daughter-in-laws and grandsons

and daughters. Applicant's mother i.e. the widow of the deceased employee Shri Kajod Mal Meena also died of the shock on 9.6.1993. It is also the case of the applicant that after the death of his deceased father Shri Kajod Mal Meena, the respondents sanctioned a family pension amounting to Rs. 950/- per month to the family which is payable upto the year 1998 only.

Applicant's other brother Bachchu Lal Meena @ Babu Lal Meena having given an affidavit to the effect that he has no objection (Annex.A-2) in case the applicant is given compassionate appointment in place of his late father; the applicant made a representation to the respondents for giving him compassionate appointment in place of his deceased father. This representation however, was rejected by the Chief Post Master General vide its letter dated 13.1.1995 which was communicated to the applicant vide letter dated 2.2.1995 (Annex.A-6) by respondent No.3. It is the grievance of the applicant that after receipt of the communication dated 2.2.1995 (Annex.A-6) he made several requests and sent his reminders and made personal approach to the office of respondents but without any result. Hence, he has been constrained to file this application to claim the aforesaid relief.

3. The respondents have opposed this application mainly on the ground that applicant's case is not one of hardship and the purpose of providing immediate assistance also does not exist in his case. It has

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also been averred that the answering respondents are not obliged to appoint any son of the late deceased employee Shri Kajod Mal Meena on compassionate ground as it is their discretion which has to be exercised on cogent and valid grounds. The plea of delay has also been raised on behalf of the respondents. It has, therefore, been urged that the application be dismissed with costs to the respondents.

4. The applicant has also filed a rejoinder to the reply filed by the respondents.

5. I have heard the learned counsel for the parties and have carefully examined the record in great detail.

6. It has been vehemently urged on behalf of the respondents that the applicant's claim cannot be accepted merely on the ground of sympathy disregard ^{W.C.} the instructions and law on the subject. The respondents having considered the case of the applicant in all its perspective have rejected the claim on valid and cogent reasons. In support of their contention, the respondents have relied upon a judgment in the case of Life Insurance Corp. of India Vs. Asha Ramchandra Ambekar and Anr. JT 1994(2) SC 183.

7. As against this, the argument of the learned counsel for the applicant has been that the respondents have not given any cogent reasons while rejecting the representation made by the applicant vide Annexure A-6. It has also been urged that the

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statutory provisions applicable in cases of compassionate appointment has also not been observed by the respondents while considering his matter for compassionate appointment in place of his deceased father.

6. I have given anxious thought to the arguments addressed by both the sides and have also looked into the OM No.14014/6/86-Estt.(D) dated 30.6.1993 issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) which is published in ^{the} ~~Journal~~ Section of All India Services Law Journal in 1994 (2) page 44. By this OM the orders issued on the subject of Compassionate Appointment of Son/Daughter/Near Relative of the deceased Government servant have been simplified and consolidated for the facility of reference. Para 1 of it lays down to whom these instructions are applicable, para 2 gives details of the authority competent to make compassionate appointment, para 3 specifies the posts (i.e. Group C & D) to which such appointment can be made. Para 4 of these instructions lays down the eligibility conditions and its sub-para (e) is relevant which reads as under:-

"(e) In deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who, before approving the appointment, will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased

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Government servant, the income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the deceased Government servant and whether he should not be a source of support to the other members of the family."

Para 5 of these instructions deals with the extent to which compassionate appointments can be made, para 6 deals with the relaxation which are permissible before accordinng compassionate appointment to the concerned individuals and paras 7,8,9 and 10 deal with , belated requests for compassionate appointment; widow appointed on compassionate grounds getting remarried; selective approach and request for change in post, respectively. Para 11 is a general instruction which gives out the proforma given in the annexure ^{which} has to be used by the Ministries, Departments for ascertaining necessary information and processing the cases of compassionate appointments.

9. In the instant case, the respondents appear to have not observed any of the instructions published to give compassionate appointment to the wards/near relatives of the deceased Government servant. They have not disclosed in their reply as to whether they asked the applicant to apply in the prescribed proforma to seek compassionate appointment in place of his deceased father. Had the respondents observed these mandatory guidelines/instructions issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training), they would have also been able to assess the exact family structure of the deceased Government servant Shri Kajod Mal Meena as also the assets and liabilities left by the deceased Government

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servant, the income of the earning member (if any) as also his liabilities including the fact that if there is any of the earning member residing in the family of the deceased Government servant, whether he should not be a source of support to the other members of the family. This is mandatorily required under sub-clause (e) of para 4 which deals with the eligibility criteria laid down by the concerned Ministry. The instructions which are issued ^{are} also applicable in the case of deceased Government servant ^{of the} respondent department. What the respondents appear to have done is that they have rejected the request made by the applicant vide their letter dated 2.2.1995 by indicating only two things; "i) the purpose of providing immediate assistance does not exist in this case; (ii) this case is not one of hardship. From the perusal of these two observations made in Annexure A-6 by the respondents, it cannot be said that the respondents did evaluate and assess the family structure of the deceased Government servant, the assets and liabilities left by him as also the financial status of the remaining members of the family of the deceased. In the instant case, although the respondents admit that the wife of the deceased Government servant Shri Kajod Mal Meena died after two days i.e. on 9.6.93, yet they maintain that since both the sons of Shri Kajod Mal Meena are major, there is no hardship involved in it and that the competent authority rightly found it not to be a case of hardship. It is true that the jurisdiction of the Tribunal to give relief in the matter of compassionate appointment is circumscribed by the Rules, Guidelines and Instructions issued by the competent authority, yet in the instant case

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the respondents appear to have not adhered to the mandate given in para 4(e) of the OM dated 30.6.93. On the contrary, they have denied the contents of para 4.4 of the application for want of knowledge wherein the applicant has himself disclosed that his father late Shri Majed Mal Meena left behind him an unirrigated piece of land containing an area of 4 bighas 17 biswas. It all goes to show that the respondents have not assessed the assets and liabilities of the deceased Government servant, nor the financial hardship faced by the remaining family members at the time of death of applicant's father. The judgment relied upon by the respondents is of no assistance to the respondents in view of the facts which have come into light in this application. I consider that this is a fit case where the respondents should have examined the case of the applicant for appointment on compassionate ground in strict compliance of the OM dated 30.6.1993 more particularly its para 4(e) reproduced above and then should have reached their conclusion about extending or not extending the compassionate appointment to the applicant instead of rejecting his request merely by observing ^{Item 2} the case is not one of hardship and indicating it to be a case where no purpose of providing immediate assistance exist.

10. Consequently, while quashing the impugned order dated 2.2.1995 (Annex A-6) issued by the respondents, the OA is allowed. The respondents are directed to assess, evaluate and consider the case of the applicant in strict compliance with the instructions

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given in OM dated 30.6.1993 issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) more particularly its para 4(e) and other relevant paras referred to above and communicate to the applicant its result by a speaking order giving detailed reasons, within a period of three months from the date of receipt of a copy of this order, as it may involve seeking some information from the applicant also.

11. This OA is disposed of accordingly with no order as to costs.



(RATAN PRAKASH)
MEMBER (J)