

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00167/2014
WITH
MISC. APPLICATION NO. 291/00119/2014

DATE OF ORDER: 13.01.2015

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Smt. Anita Bagweal d/o late Shri Satyanarayan, wife of Shri Pappulal, aged 34 years, resident of Village Nangal, Susawtan, Tehsil Amer, District Jaipur, Rajasthan.

...Applicant

Mr. Shiv Lal Verma, counsel for applicant.

VERSUS

1. Union of India through Secretary, Ministry of Post, Government of India, New Delhi.
2. Senior Superintendent, R.M.S., Jaipur Division, Jaipur.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER

The applicant has filed the present Original Application praying for the following reliefs:

- "(a) By an appropriate order and direction the respondents may be directed to give compassionate appointment to the applicant on the suitable post with all consequential benefits from the date of submitting application.
- (b) Any other order or relief or direction this Hon'ble Tribunal may deem fit and proper be also passed in favour of the Applicant."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the father of the

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applicant was posted as Chowkidar / MTS MG with the respondent-department. He died during service on 30.05.2011. The applicant is class VIII pass. She is the sole survivor of her father. The applicant is married and she is taking care of her widow mother who is residing with the applicant.

3. The applicant applied for compassionate appointment in place of her deceased father being sole survivor. However, the respondents have denied compassionate appointment vide order dated 19.08.2011 (Annexure A/2) and 24.05.2012 (Annexure A/1) on the ground that the applicant being married does not fall within the category of the dependent family members.

4. Learned counsel for the applicant relied upon the judgment of the Hon'ble Bombay High Court, Aurangabad Bench in the case of **Radhabai vs. State of Maharashtra & Ors.** (Writ Petition No. 8989 of 2011) decided on 10th February, 2012 in which the Hon'ble High Court has held that even married daughters would be eligible for appointment on compassionate grounds. No married woman can be denied appointment on compassionate grounds just because she is married. Therefore, in view of the decision of the Hon'ble Bombay High Court, Aurangabad

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Bench in the case of Radhabai (supra), the applicant is also entitled for appointment on compassionate grounds and the respondents be directed to consider her case afresh for appointment on compassionate grounds.

5. On the other hand, the respondents have filed their written reply. In the written reply, the respondents have stated that the applicant is a married daughter of the expired employee. According to the scheme for grant of appointment on compassionate grounds, a family member has to be dependent of the deceased employee dying in harness. This provision is to tide over the family of the deceased employee from sudden financial crisis that arises due to the death of the breadwinner. It does not intend to ensure that in each and every case, the member of the family of the deceased employee will get appointment on compassionate grounds. According to the letter dated 16.01.2013 (Annexure ^R~~A~~/2) and letter 09.01.2014 (Annexure R/3), issued by the Department of Posts, regarding compassionate appointment, the married son and married daughter cannot be considered as member of the family. Even the DOP&T while issuing letter dated 30.05.2013 (Annexure R/4) have stated that the married daughter can only be considered for appointment on

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compassionate grounds when she was wholly dependent upon the Govt. servant at the time of his death.

6. In the present Original Application, the applicant is married and is living with her husband and children separately. No member is alive in the family of late Shri Satya Narain. The applicant was not dependent on her father at the time of his death, therefore, her application could not be considered as dependent family member.

7. Learned counsel for the respondents further submitted that even in the judgment of the Hon'ble Bombay High Court, Aurangabad Bench, in the case of Radhabai (supra) which was relied upon by the learned counsel for the applicant, the Hon'ble High Court has held that "dependency should be the yardstick for considering the case of the married daughter". In the case before the Hon'ble Bombay High Court, Aurangabad Bench, the applicant though married but was a divorcee. She was living with her father at the time of death of her father. Therefore, under those circumstances, the Hon'ble Bombay High Court, Aurangabad Bench, came to the conclusion that the applicant was dependent on her father. However, in the present case, the applicant who is married has been staying with her husband and children separately at the

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time of death of her father, therefore, the applicant cannot be said to be dependent on her father at the time of his death.

8. Moreover, the applicant has stated that she has to look-after her mother, which is not correct. The mother of the applicant died way back on 15.06.1987 and her death certificate has been enclosed as Annexure R/8. Therefore, the contention of the applicant that she has to look-after her mother is also wrong.

9. The applicant has filed a rejoinder.

10. Heard the learned counsel for the parties, perused the documents available on record and the case law as referred to by the learned counsel for the applicant.

11. Learned counsel for the applicant reiterated the arguments, which have been stated in the O.A. and he relied upon the judgment of the Hon'ble Bombay High Court, Aurangabad Bench in the case of Radhabai (supra). However, he admitted that the mother of the applicant died in 1987 and it is a mistake in the O.A. that the applicant has to look-after her mother.

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12. On the other hand, learned counsel for the respondents also reiterated the facts as stated in the written reply and submitted that the case law as referred to by the learned counsel for the applicant in the case of Radhabai (supra) is not applicable under the facts and circumstances of the present case. The applicant was not dependent on her father at the time of death of her father. She was married and staying with her husband and children separately at the time of death of her father. Therefore, she is not eligible for appointment on compassionate grounds.

13. Learned counsel for the applicant has not disputed the fact that the applicant was married and staying with her husband and children separately at the time of death of her father.

14. I have carefully perused the judgment of the Hon'ble Bombay High Court, Aurangabad Bench in the case of Radhabai (supra). The main criteria for considering the case of a married daughter for compassionate appointment is her 'dependency' on her father and not her 'marriage'. In the said case before the Hon'ble Bombay High Court, Aurangabad Bench, the applicant was divorcee and has been staying with her father for a long time and, therefore, the Hon'ble Bombay High Court, Aurangabad Bench has

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directed the respondents to consider the case of the petitioner for appointment on compassionate grounds. But in the instant case, the applicant cannot be said to be dependent on her father at the time of death of her father. She has been staying separately with her husband and children after her marriage. The mother of the applicant has already expired way back in 1987. Therefore, I do not find any reason to interfere with the letter dated 19.08.2011 (Annexure A/2) and letter dated 24.05.2012 (Annexure A/1) issued by the respondent-department rejecting the claim of the applicant for appointment on compassionate grounds.

15. The applicant has failed to make out any case for relief in the present Original Application.

16. Consequently, the present Original Application being devoid of merit is dismissed with no order as to costs.

17. In view of the order passed in the Original Application, the Misc. Application filed by the applicant praying for condonation of delay is disposed of.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER