

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.180/2001

Date of order: 20/11/2001

Smt.Manju Nigam, S/o late Sh.R.K.Nigam, R/o 31 P&T Colony, Shanti Nagar, Hatwara, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini.of Communication, Dptt.of Post, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Asstt.Director (Rectt.), O/o Chief PMG Rajasthan Circle, Jaipur.
4. Sr.Superintendent of Post Office, City Division, Jaipur.

...Respondents.

Mr.Shalendra Srivastava : Counsel for applicant.

Mr.Arun Chaturvedi : for respondents.

CORAM:

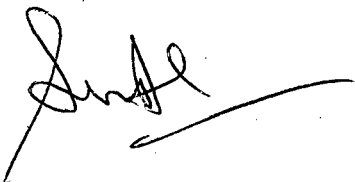
Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash the impugned order dated 7.2.01 (Annx.A1) and order dated 5.2.01 (Annx.A2) and direct the respondents to appoint the applicant on Class III post vice her husband on compassionate ground.

2. Vide letter dated 5.2.01, the respondents' department rejected the application of the applicant on the following grounds:

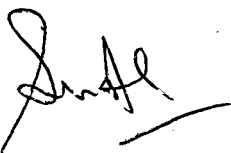
- i) The applicant is getting family pension amounting to Rs.2800/- plus Dearness relief permonth;
- ii) Terminal benefits to the tune of Rs.4,30,957/- has been paid to the applicant;



iii) The applicant is in possession of a residential house and KVP of Rs.2,50,000/-. Hence the financial condition of the family does not appear to be indigent requiring immediate relief.

3. Vide order dated 7.2.2001, the respondents' department observed that late Shri R.K.Nigam, expired on 4.12.99, the widow is getting family pension amounting to Rs.2800/- plus D.R per month, Terminal benefit to the tune of Rs.4,30,957/- was paid to the family and the family in possession of a house and KVP worth Rs.2,50,000/-, hence the condition of the family is not indigent.

4. Facts of the case as stated by the applicant are that Sh.R.K.Nigam, husband of the applicant died while in service on 4.12.99 leaving behind his widow and two unmarried daughters, Miss Preeti Nigam and Miss Monika Nigam and there was no earning member in the family except the deceased. It is also stated that the applicant earlier filed O.A No.567/2000 before this Tribunal which was disposed of by directing the respondents to dispose of the representation of the applicant within a specified time. But the respondents have rejected the representation filed by the applicant against the Scheme issued by the Central Govt for this purpose. It is stated that the respondents have wrongly rejected the application on the ground that the applicant had been paid sufficient amount of terminal benefits. It is stated by the applicant that major part of the terminal benefits have already been spent to pay off the debt taken by the deceased and the remaining part is not sufficient to pull on the responsibilities of education and marriage of two daughters. It is stated that the applicant is eligible for Class III post as she is possessing all the



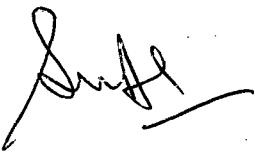
requisite qualifications. Therefore, it will be unjust and unfair to deny the appointment to the applicant on compassionate ground. Hence, the applicant filed this O.A for the relief as above.

5. No reply has been filed in spite of sufficient opportunities were given to the respondents. The learned counsel for the respondents have filed written submissions.

6. Heard the learned counsel for the parties and also perused the whole record and the averments of the applicant and written submissions filed by the respondents.

7. Although it is an admitted fact that the applicant is getting family pension of Rs.2800/- plus Dearness Relief per month and was also paid terminal benefits to the tune of Rs.4,30,957/-. But the applicant has specifically averred that the major part of the terminal benefit has already been spent to clear the debts of the deceased and expenses incurred for the treatment of the deceased which fact the respondents could not controvert by filing the reply or otherwise. Not only this but this fact is also admitted that the deceased R.K.Nigam, left behind him two unmarried daughters whose expenses on education/maintenance and marriage is on the shoulders of the widow. The application on compassionate appointment of the applicant has been rejected on the ground as mentioned above but mere fact that the family received a good amount of terminal benefit on the death of the sole bread earner alone cannot be a ground for denying the appointment on compassionate ground.

8. In Balbeer Kaur & Anr. Vs. Steel Authority of India, 2000 SCC(L&S) 767, Hon'ble Supreme Court held that while considering the case for appointment on compassionate grounds, the retiral benefits received by the family shall

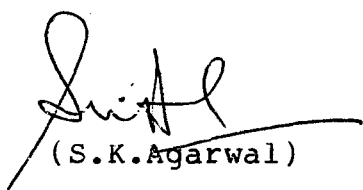


not be taken into account and this ruling of the Apex Court has been followed by the Principal Bench in Smt. Anar Kali & Anr Vs. UOI & Ors, 2001(2) ATJ 387.

9. If we examine the instant case within the purview of the scheme issued by the Central Govt for this purpose, I find that the provisions of the Scheme are liberal and it appears that in case of harness the widow/ward of the deceased employee is entitled to appointment on compassionate grounds.

10. As the applicant has properly explained that she has no other sources of income after the death of her husband and the terminal benefits received by her have been almost spent in paying off the liabilities left by her husband and she has a burden of education and marriage of her two daughters, therefore, looking to the facts and circumstances of this case and settled legal position, I am of the considered opinion that the applicant is entitled to be considered for appointment on compassionate grounds on a suitable post and receiving terminal benefit by her should not be only a ground to deny her appointment on compassionate grounds. The legal citations as referred by the counsel for the respondents in his written submissions do not help the respondents' department in any way.

11. I, therefore, allow this O.A and direct the respondents to reconsider the case of the applicant for appointment on compassionate grounds on a suitable post within a period of two months from the date of receipt of a copy of this order. No order as to costs.


(S.K. Agarwal)

Member (J)