

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Dated of order: 14.05.2003

OA No.213/01

Kumari Anita Jain d/c late Shri Gopal Lal Jain r/o Plot
No.B-25, Tulsi Dasji Ki Bagichi, Janta Colony, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communication, Govt. of India, New Delhi.
2. The Senior Superintendent of Post Offices, Jaipur City, Jaipur
3. The Secretary to the Govt. of India, Department of Personnel and Training, Govt. of India, New Delhi.

.. Respondents

Mr. S.K.Jain, counsel for the applicant

Mr. N.C.Goyal, counsel for the respondents

CORAM:

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

O R D E R

Per Hon'ble Mr. M.L.Chauhan

The applicant is aggrieved of the order dated 8.3.01 (Ann.A1) whereby her request for appointment on compassionate ground has been rejected. In relief, she has prayed for quashing the said order and for appropriate directions to the respondents to give her appointment on compassionate ground on any post in any Ministry/Department or Office forthwith. The applicant has also prayed that provisions of Rule 7(a),(b) and (e) of the scheme for compassionate appointment at Ann.A2 dated

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9.10.98 be declared ultra vires.


2. The case as made out by the applicant in this OA is that:-

2.1 The father of the applicant late Shri Gopal Lal Jain was working in the Postal Department at Jaipur as Sorter Postman. He was permanent employee and expired on 6.12.1989. On the death of the father of the applicant, her mother, Smt. Vimla Devi, submitted an application before the competent authority for granting compassionate appointment to her daughter, Kumari Anita Jain, the applicant. A copy of the application dated 7.4.99 has been annexed with this ^{DA R} as Ann.A4. It is further averred that nothing was heard from the respondents on the ground that the applicant had not attained the age of majority i.e. 18 years. She further submitted an application in June, 2000 on attaining the age of majority on 2.5.02 (Ann.A5). The matter was recommended by the Chief Postmaster General, Jaipur vide letter dated 14.2.02. However, vide the impugned order dated 8.3.01 (Ann.A1), the request of the applicant for grant of compassionate appointment was rejected for the following reasons as contained in the impugned order:-

- i) The widow is getting family pension amounting to Rs. 2100/- + D.R. per month.
 - ii) Terminal benefits to the tune of Rs. 1,95,886/- has been paid to the widow.
 - iii) The family is in possession of residential/ agriculture land valued to Rs. 1,50,000/-
 - iv) Hence, the financial condition of the family does not appear to be indigent requiring immediate relief.
- 42*

Hence there is no indigency in the case and the committee has accordingly rejected her case for appointment on compassionate grounds. Feeling aggrieved, of the aforesaid order, the applicant has filed the present OA for the reliefs as mentioned above on the ground that the family is in indigent circumstances.

3. The respondents have contested this application by filing reply. It has been stated in the reply that the matter was placed before the Circle Selection Committee (CSC). The applicant was informed through the impugned order that the case of the applicant for the post of Postal Assistant cadre for appointment under the compassionate ground scheme is not covered. The scheme is not intended to ensure that member of the family is employed in each and every case. Compassionate appointment can be provided only to fill vacancies upto 5% that arises for direct recruitment. Since there has been literally no vacancy since last 3 years. The candidate on the waiting list are already waiting for appointment since 1996 and basic purpose to provide immediate relief is defeated if immediate appointment is not given as per DOPT order dated 3.12.99 within a period of one year. It is further submitted that in the case of the applicant, the widow is getting family pension of Rs. 2100 + D.R. per month. The widow has also received terminal benefits to the tune of Rs. 1,95,886/-. The family is in possession of residential house valuing Rs. 1,50,000. In such circumstances, the case of the applicant was not found fit for giving compassionate appointment by the CSC. Ann.A1 is self explanatory. It is further submitted that all the relevant factors were considered by the CSC such as financial



condition as well as availability of vacancies. Except the marriage liability of the applicant, there were no other liability such as education of minor children, responsibility of aged parents, prolonged and major ailment of family members etc. The family has own house to live in and there is literally no vacancy in the PA/SA cadre. The cases which were more indigent in comparison to the applicant have been shortlisted and kept for further screening. The case of the applicant was not found under parameters governing the compassionate appointment cases.

4. The applicant has filed rejoinder controverting the submissions made by the respondents in their reply. It has been stated that no decision of the CSC was given to the applicant and the same has not been filed by the respondents with the reply. Therefore, the applicant could not challenge the said order. It is further submitted that as far as the pensionary benefits and terminal benefits are concerned, the same were utilised for the treatment of his father, who was heart patient and most of the amount were utilised towards the treatment of the deceased employee. The house is so small that it does not and cannot render any income to the applicant's mother. It is further stated that the residential house valued Rs. 1,50,000/- was built by her father taking loans from various persons and the said loan was repaid by the mother of the applicant out of the terminal benefits, such as loan of Rs. 28,983/- from GPO Credit Society, loan of Rs. 27,378/- from the Urban Cooperative Bank and loan of Rs. 15,000/- from other private parties. That apart, the applicant has to be married being major now for which the expected expenses are to the tune of Rs. 4 lakhs. As such,



in this small amount paid to the family as terminal benefits and the monthly pension, is not sufficient to meet the expenses. In these circumstances, the family of the applicant is in indigent condition and therefore, her case ought to have been placed before the Committee for the purpose of granting compassionate appointment.

5. Heard the learned counsel for the parties and perused the record.

5.1 At the outset, it may be stated that the learned counsel for the applicant has not pressed the relief regarding declaring provisions of Rule 7 (a), (b) and (e) of the compassionate appointment scheme Ann.A2 dated 9.10.98 as ultra vires, as such no finding is required on this point.

5.2 The only point which has been pressed by the learned counsel for the applicant is that the case of the applicant was rejected on the ground that the financial condition of the family did not appear to be indigent requiring immediate relief for the sole reason that the widow is getting family pension of Rs. 2100/- + D.R. per month, the family got terminal benefits to the tune of Rs. 1,95,886/- and also that the family is in possession of a residential house approximate cost of which is Rs. 1,50,000. He submitted that as per the established law, the respondents cannot come to the conclusion that the condition of the family is not indigent only for the reason that family received some terminal benefits and getting monthly family pension. He quoted the judgment of the Hon'ble Apex Court in Balbir Kaur vs. Steel Authority of India Ltd. [2000 SCC (L&S) 757] in support of his contention. He also submitted that the family received

terminal benefits to the tune of Rs. 1,95,886/- and this amount was spent on the treatment of her father, who was a heart patient. The house is so small that it does not and cannot render any income to the mother of the applicant and the said house was built by her father after taking loan from various persons and the said loan was repaid by the mother of the applicant out of the terminal benefits. It has been argued that the father of the applicant had taken loan from the GPO Credit Society to the tune of Rs. 28,983/-, loan from Urban Cooperative Bank to the tune of Rs. 27,378/- and loan from the private parties extending to Rs. 15,000/-. Further, the applicant has to be married being major and for that purpose a considerable amount is required to be spent. As such the terminal benefits and the monthly pension so granted to the mother of the applicant is not sufficient to meet out the expenses and the family is in indigent condition and, therefore, her case ought to have been placed by the respondents before the CSC and the same could not have been rejected at the threshold coming to the conclusion that there is no indigency in the case of the applicant. The contention raised by the applicant cannot outrightly rejected.

5.2 Indeed, it is not the case of the respondents, as can be seen from the impugned order Ann.A1, that based on the comparative merit of the eligible candidates considered during the year and based on the merit so prepared and keeping in view limited vacancies of 5%, the applicant could not be selected. Had the case been rejected on this ground, it may not be possible for the Tribunal to interfere with the impugned order. But as already stated above, the case of the applicant was rejected solely on the ground that the financial condition


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of the family is not indigent for the reason that the family has received terminal benefits and the widow is getting family pension and also own a house valued Rs. 1,50,000/- to live in. No comparative merit of the applicant vis-a-vis the selected candidate was ever prepared. Further, there is nothing on the record to suggest that on what basis the CSC shortlisted the cases and came to the conclusion that there were more indigent cases as compared to the applicant and only those cases were kept for further screening as alleged in the reply. Such vague assertion in the reply without any supporting material cannot be accepted. I agree with the contention of the learned counsel for the applicant and hold that the respondents cannot come to the conclusion that the financial condition of the family is not indigent solely on account that the family received terminal benefits and is getting monthly family pension. Such decision could not have been taken without taking into account other relevant factors namely, the applicant is still unmarried and a considerable amount is required to be spent on her marriage and the terminal benefits so received by the family has been utilised on the treatment of the deceased employee who was a heart patient and the house value of which has been assessed as Rs. 1,50,000 was build by her father after taking loan from various persons and the said loan was paid by the mother of the applicant out of the terminal benefits. Not only this, the father of the applicant has taken loan from GPO Credit Society to the tune of Rs. 28,983/-, loan from the Urban Cooperative Bank to the tune of Rs. 27,378/-. These averments have not been controverted by the respondents in their reply. Thus rejecting the case of the applicant solely on the ground that the family has received terminal benefits and getting



monthly pension and own a house to live, is not in order. This Tribunal in OA No.215/01, Jai Kishan Meena Vs. Union of India and ors., decided on 6.5.03 pertaining to the Postal Department has held that till such time the respondent Department did not laid down norms in order to objective assessment in determining the comparative merit for compassionate appointment cases, they will follow the procedure/norms laid down by the M/o Defence in this regard vide their ID dated 9.3.02. The same procedure shall also be followed in the instant case.

6. In view of what has been stated above, I am of the view that the case of the applicant has been rejected without any valid reason. Accordingly, the impugned order dated 8.3.01 (Ann.A1) is quashed. The respondents are directed to consider the case of the applicant afresh after working out the vacancies and after comparative merit of the candidates considered keeping in view the norms as specified above within 3 months from today. No order as to costs.


(M.L. CHAUHAN)
Member (J)