

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.410/2001

Date of order: 26/3/2002

Prem Narain Sharma, S/o late Shri Sri Kishan Sharma,  
R/o V & Post Nimrana, Distt.Alwar.

...Applicant.

Vs.

1. Union of India through Ministry of Communication,  
Central Secretariat, New Delhi.
2. Chief Post Master General, Deptt. of Post &  
Telegraphs, Jaipur.
3. Senior Superintendent, Postal Division, Alwar.

...Respondents.

Mr.Suresh Kashyap

: Counsel for applicant

Mr.N.C.Goyal

: Counsel for respondents.

CORAM:

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

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

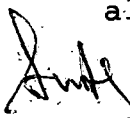
In this O.A filed under Sec.19 of the ATs Act, 1985,  
the applicant makes a prayer to quash and set aside the  
letter dated 18.3.2001 and to direct the respondents to  
reconsider the case of the applicant for appointment on  
compassionate grounds.

2. In brief facts of the case as stated by the  
applicant are that father of the applicant Sh.Sri Kishan  
Sharma, died on 11.12.96 while in service and mother of the  
applicant requested to consider the case of the applicant  
for appointment on compassionate grounds vide application  
dated 11.7.97 but the respondents rejected the application  
vide order dated 18.3.2001. It is stated that the denial of  
appointment to the applicant on compassionate grounds is  
arbitrary and contrary to the law/rules as two daughters of



the deceased employee are unmarried and there is no other earning member in the family after death of the deceased Govt employee. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated in the reply that the Circle Selection Committee has considered the case of the applicant on 17.1.2001 and did not find the applicant suitable for appointment on compassionate grounds under relaxation of rules and such employment can only be provided by filling 5% of the vacancies. Therefore, it has become essential to approve only most deserving cases as per instructions issued by DOPT letter dated 9.10.98. It is also stated that as per letter dated 3.12.99, if immediate appointment is not given within one year, the basic purpose of providing immediate financial assistance is defeated. Therefore, the Committee after considering the aspect of the matter opined that there is no indigent circumstances exist in the family and rejected the claim of the applicant vide the impugned order dated 18.3.2001. It is stated that Hon'ble Supreme Court in Himachal Road Transport Corpn. Vs. Sh.Dinesh Kumar, JT 1996(5) SC 3193 and Hindustan Aeronotics Ltd. Vs. Smt.A.Radhika Thrumalai, JT 1996(9) SC 197, held that appointment on compassionate grounds can only be made if the vacancy is available for that purpose. It is stated that the Circle Selection Committee has considered the case of the applicant and in view of the orders of DOPT dated 9.10.98 (Annx.R1) and 3.12.99 (Annx.R2) rejected the same. It is also stated that the family has received terminal benefits Rs.113,979/- and the widow is getting family pension @ Rs.2100/- plus Dearness Relief per month. It is also stated that the family is having agricultural land from



which there is additional income. The applicant is a grown up man, who can assist the family for the marriage of his sisters. It is further stated that 10 candidates are already waiting list since 1997 for appointment on compassionate grounds and the department has discontinued further waiting list vide order dated 8.2.2001. Therefore, the applicant has no case.

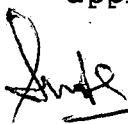
4. Rejoinder has also been filed reiterating the facts as stated in the O.A.

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

6. Undoubtedly, the Circle Selection Committee has considered the case of the applicant from all angles and rejected on the ground that the family has received terminal benefits to the tune of Rs.113,979/- and the widow is getting family pension @ Rs.2100 plus Dearness Relief. There is additional income in the family from agricultural land and the applicant is a grown up man who can assist for the marriage of his sisters. There are 10 candidates in the waiting list since 1997 who have not been given appointment so far. The basic purpose for providing compassionate appointment is defeated if immediate appointment is not given within the period of one year, as per DOPT order dated 3.12.99.

7. On a perusal of the averments made by the parties, I am of the considered opinion that no indigent circumstances exist in the family of the deceased Govt employee.

8. The learned counsel for the applicant vehemently urged that two daughters of the deceased employee are unmarried; therefore, rejection of the application of the applicant is contrary to the principles of appointment on

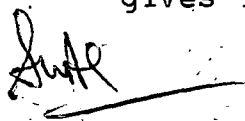
  
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compassionate grounds. The learned counsel for the respondents opposed this argument and stated that no indigent circumstances exist in the family of the deceased and 10 candidates are still in the waiting list from 1997 who could not be appointed on compassionate grounds. Therefore, in view of the circulars issued by the DOPT in this regard, the applicant has no case.

9. I have given anxious consideration to the rival contentions of both the parties and also perused the circulars.

10. The circular dated 22.6.01 in which all the earlier circulars as referred above have been considered and provides that:

"The undersigned is directed to refer to paragraph 7(f) of the Deptt. of Personnel & Training OM No.14014/6/94-Estt.(D) dated October 9, 98 read with OM No.1401/23/99-Estt(d) dated December 3, 99 on the above subject and to say that the matter has been further examined generally it is seen that in view of the 5% ceiling prescribed for compassionate appointment under the extent instructions, there are not enough vacancies to accommodate even requests for compassionate appointment from family members of Govt servants belonging to the same Ministry/Deptt./Offices for such appointment. Therefore, while no useful purpose is being served by taking up the matter with other Ministries/Deptt/Offices of Govt of India to consider such other cases received by them from other Ministries/Deptt/Offices for compassionate appointment it is the other hand only gives false hope to the applicants as grant of such



appointment by other Ministries etc. cannot be guaranteed. It has, therefore, been decided that in future the Committee prescribed in paragraph 12 of the OM dated October 9, 98 for considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should limit its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/department/office, that too within the ceiling of 5% of vacancies falling under DR quota in any Group C or D post prescribed in this regard in para 7(b) of OM dated 9.10.98 referred to above.

2. The instructions contained in the Office Memoranda referred to above modified to the extent mentioned above.

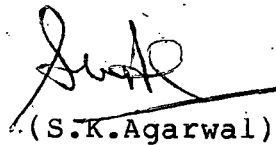
3. The above decision may be brought to the notice of all concerned for information, guidance and necessary action."

11. On a perusal of the averments made by the parties and the DOPT circular as referred above, I am of the considered opinion that no indigent circumstances exist in the family of the deceased and appointment more than 5% quota meant for this purpose cannot be given. Moreover there are already 10 persons in the waiting list and recommendation for appointment on compassionate grounds can only be made in really deserving cases and only if the vacancy meant for appointment on compassionate grounds will

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be available within a year that too within the ceiling of 5% vacancy falling under the direct recruitment quota in any Group-C & D Post prescribed in this regard. In this case, the applicant did not challenge any of the circulars issued by the DOPT in this regard. Therefore, the applicant has no case for interference by this Tribunal.

12. I, therefore, dismiss this O.A with no order as to costs.



(S.K. Agarwal)

Member (J).