

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

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Date of Order : 29.10.2002.

Original Application No. 505/2001

Suresh Kumar Meena S/o Late Shri Badri Narain Meena, aged about 22 years, Resident of Village and Post Gulab Bari Via Samod, District Jaipur, Aspirant for appointment on compassionate grounds.

.....Applicant.

versus

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi - 110 001.
2. Chief Post Master General, Rajasthan Circle, Jaipur 302 007.
3. Superintendent of Post Offices, Jaipur (M), Division, Jaipur - 302 016.

.....Respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

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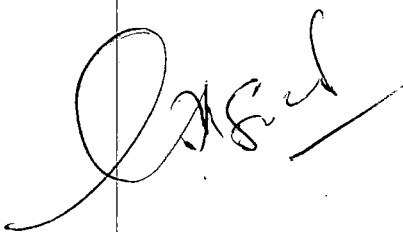
Mr. C.B.Sharma, Counsel for the applicant.
Mr. N.C.Goyal, Counsel for the respondents.

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ORDER

[Per Mr. Justice G.L.Gupta]

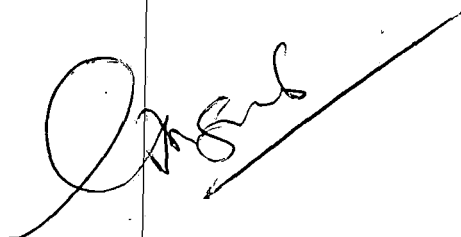
This Original Application under section 19 of the Administrative Tribunals Act, 1985, has been filed against the order dated 18th September, 2001 (Annex.A/1), rejecting the application of the applicant for appointment on compassionate grounds.



2. It is averred that the applicant is son of late Shri Badri Narayan Meena, a substantive employee of the postal department, who, died at the age of 42 years on 1st June, 1997 following an accident. The applicant being eligible for appointment to Group 'C' post, applied for employment on compassionate ground on 27th March, 1998. His application came to be rejected on 18th September, 2001.

It is stated that respondents extended terminal benefits to the family Rupees One lakh only which included the amount of General Provident Fund and the Insurance amount of the deceased employee and that the applicant's mother is getting pension of Rupees 2200/- per month only which will be reduced to Rupees 1100/- per month only after three years. It is further stated that the amount received by way of terminal benefits has been spent in paying of the loans taken during the life time of the deceased employee and also in the marriage of the applicant. It is also stated that the family does not have movable or immovable property except three bighas of agriculture land from which there is income of Rupees ten thousand per annum and even the said land is in the name of his grand father. It is stated that the family of the deceased consists of the widow mother of the applicant and three unmarried daughters, three sons, and father. It is averred that the family is in an indigent condition after the death of the deceased employee and the condition will be at the more worse in 2004 when the family pension will be reduced to Rupees 1100/- per month. It is prayed that the respondents be directed to give appointment to the applicant on compassionate grounds on a suitable post.

3. In the counter, the respondents have come-out with the case that the applicant could not be given employment because no vacancy is

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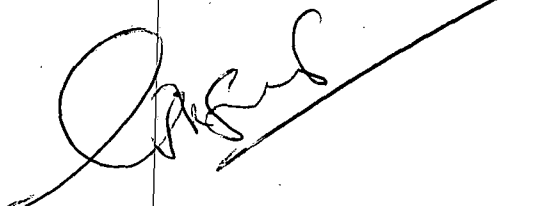
available within a ceiling of 5% for direct recruitment. It is further stated that the applicant owns a house along with agriculture land and that the candidates approved in the year 1997-98, are still waiting for providing appointment on compassionate ground and, therefore, the applicant cannot be offered appointment.

4. Rejoinder has been filed by the applicant stating that as many as 120 posts of Post Man, newly sanctioned in the year 1999, are lying vacant and 49 posts of Post Man are lying vacant due to the retirement during 1996-2001, besides, 49 posts of the Post Man newly created in the year 1999.

5. In reply to the rejoinder, it is stated that no posts are lying vacant and that no posts have been created in the years 1996 to 2001.

6. We have heard the learned counsel for the parties and perused the documents placed on record.

7. Mr. Sharma, learned counsel for applicant, contended that the case for employment on compassionate ground, ought not to have been rejected on the ground that the family got terminal benefits of Rupees One Lakh or that family pension is being paid at Rupees 2200/- per month. Pointing-out that the agriculture land is in the name of the grand father of the applicant and the income from which, is also not more than ten thousand per annum, he submitted that the family is in indigent condition and, therefore, applicant is entitled to get appointment. Drawing our attention to the Scheme of 1998 Mr. Sharma contended that the ban orders of filling - up of the posts issued by the Ministry of Finance ~~is not~~ is not applicable in the matter of



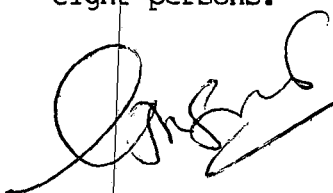
appointment on compassionate ground and that steps are required to be taken by the department to take-up the matter with the other ministries/departments/ offices of the Government of India to provide employment on compassionate ground. His further contention was that the period of one year fixed in the Memorandum dated 3rd December, 1999, is directory in nature and keeping in view the facts and circumstances of the case, the respondents be directed to reconsider the case of the applicant.

8. On the other hand, Mr. Goyal, learned counsel for the respondents contended that the family of the deceased is not in such a financial hardship that, appointment on compassionate ground is required. His contention was that when no vacancy is available, appointment cannot be given, more so, when appointment is to be given within 5% of the vacancies meant for direct recruitment.

9. We have given the matter our thoughtful consideration.

10. It has to be accepted that the amount of terminal benefits of Rupees One Lakh, was not of that much magnitude as to hold that the family had got enough amount, more so, when the amount is said to have been spent in paying the loans of the deceased employee.

So also, the amount of the family pension of Rupees 2200/- also, cannot said to be enough to deny the applicant appointment on compassionate ground. This fact cannot be lost sight off that after seven years of the death of the deceased employee, the amount would be reduced to Rupees 1100/- per month only and the family consists of eight persons.

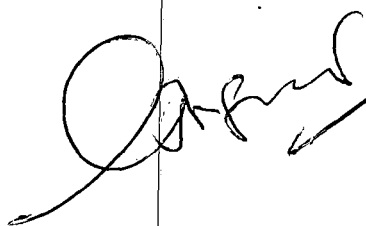


It is not disputed that the agriculture land is in the name of the grand father of the applicant and the income from the said land is not more than ten thousand rupees per annum.

11. Keeping in view of the facts and circumstances of the case, it cannot be said that the family of the deceased employee is not in financial hardship. It may be that the family has survived for five years but, obviously it was due to the fact that a lump sum amount was received by way of terminal benefits and the amount of the family pension is double the rate, the widow shall get after two years.

12. It is true that if, there is no vacancy the respondents cannot be compelled to give appointment to the applicant. However, in the policy it is laid down that efforts should be made to provide appointment on compassionate ground anywhere under the Government of India and that the concerned department may request the other departments/ministries and offices to provide appointment to such a person. It is obvious that the respondents have not taken steps in that direction.

13. As to the contention that the appointment on compassionate ground can be given within one year stated in the Memorandum dated 3rd December, 1999, it may be stated that the period fixed in this regard is of directory in nature. It cannot be interpreted in this manner that if the vacancy is not available within a year, the dependant of the deceased employee would be debarred from getting employment. If, the Scheme of providing appointment on compassionate ground is interpreted in this manner, it will defeat the object for which the



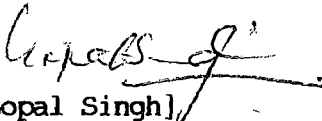
scheme was formulated. It is clearly stated in the scheme that the object of the scheme is, to grant appointment on compassionate ground to a dependent family member of a government servant dying in harness who left his family in penury and without any means of livelihood. It is clear that the object of saving the family of the government servant from financial destitution shall be defeated if it is held that appointment on compassionate ground can be given only within one year of the death of the deceased employee.


14. It is significant to point out that in the instant case, the deceased employee had died in 1997 and the applicant had made his application in 1998 which was decided by the respondents in September 2001. It is not understood how the condition of one year can be imposed in a matter in which the respondents have taken more than three years to decide the application of the applicant for compassionate appointment.

15. Having considered the entire material on record, we think that it is a fit case in which the respondents are directed to re-consider the case of the applicant for appointment on compassionate ground.

16. Consequently, the respondents are directed to re-consider the case of the applicant for appointment on compassionate ground in the light of the observations made above, within a period of four months from the date of communication of this order.

17. No order as to costs.


[Gopal Singh]
Administrative Member


[G.L. Gupta]
Vice Chairman

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