

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.544/01

Date of order: 13/3/2002

Jeev Raj Singh, S/o late Sh.Narain Singh, R/o House
No.20, Kesargarh, JLN Marg, Jaipur.

...Applicant.

1. Union of India through Post Master General, C-Scheme
Jaipur.
2. Dy. Director of Accounts (Postal) Post & Telegraphs,
Jaipur.
3. Accounts Officer (Adm.), A/cs (Postal) A-22,
Shantipath, Tilak Nagar, Jaipur.

...Respondents.

Mr. Manish Bhandari : Counsel for applicant

Mr. R.L. Agarwal, proxy of Mr. Bhanwar Bagri, for respondents.

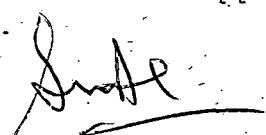
CORAM:

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 relief sought by the applicant is to quash and set aside the impugned letter dated 25.9.2001 and to direct the respondents to consider the candidature of the applicant for appointment on compassionate grounds, as per his qualification, after giving him suitable relaxation as provided in the rules.

2. In brief the case of the applicant is that father of the applicant, Sh.Narain Singh was working on the post of Chowkidar in the respondents' department died on 30.10.2000 while in service, leaving behind him widow, son (applicant), 5 daughters. It is stated that there was no other bread earner in the family of the deceased after his death. The applicant submitted an application dated 22.3.2001 to the



respondents' department for granting him compassionate appointment which was rejected vide letter dated 25.9.2001 (Annex.A1) on the ground that the applicant is in possession of a residential house in Jaipur and his family condition is sound as children are grown-up and the mother is receiving family pension and received terminal benefits on account of the death of the deceased. It is stated that the rejection of the application by the respondents was unjust and improper as there is no other earning member in the family of the deceased. It is stated that in a rented house the deceased Narain Singh and his family was living for which a litigation is also pending for eviction. It is stated that the applicant's mother is receiving only Rs.2400/- per month as family pension which is a meager amount and the terminal benefits received have almost been exhausted on the final rites of the deceased father and in maintaining the family members for the last 1½ years. Therefore, the applicant sought a direction to the respondents to reconsider the case of the applicant for appointment on compassionate grounds.

3. Reply was filed. In the reply, it is stated that the applicant applied for appointment on compassionate grounds after death of Sh.Narain Singh which was rightly rejected as per the Central Govt revised consolidated instructions. It is stated that the selection committee has considered the case of the applicant in the light of the judgment of the Apex Court held in Umesh Kumar Nagpal Vs. State of Haryana & Ors, reported JT 1994(3) SC 525 and after considering the financial position of the deceased family, the application for compassionate appointment was rejected. It is also admitted in the reply that the possession of a residential house in Jaipur by the applicant was an error made by the



respondents while communicating the decision of the Circle Selection Committee dated 25.9.2001. It is also stated that the Committee did not find the case of the applicant as deserving for approval for appointment on compassionate grounds on the basis of merit as also on the basis of nonavailability of vacancy. It is also stated that the applicant is adult of 36 years and can help his mother and sisters in the same way as if his father would alive. Therefore, the applicant has no case for interference by this Tribunal.

4. Heard the learned counsel for the parties and also perused the whole record and the legal citations.

5. Admittedly the deceased Narain Singh died leaving behind him (i) the widow, (ii) son (the applicant) (iii) 5 daughters and there was no other bread earner in the family after death of the deceased. Merely that the widow was paid terminal benefits and she is getting family pension is no ground to deny the appointment on compassionate ground as terminal benefits are not a compassion/substitute of compassionate appointment.

6. In Balbir Kaur & Anr. Vs. Steel Authority of India, 2000 SCC (L&S) 767, Hon'ble Apex Court had held that while considering the case of appointment on compassionate grounds, the retiral benefits received by the family shall not be taken into account meaning thereby the retiral benefits paid to the widow of the deceased should not be made a sole criteria to refuse the appointment to the applicant on compassionate grounds. This judgment of the Supreme Court was relied upon by the Principal Bench of the Tribunal in the case of Anarkali & Anr. Vs. Union of India & Ors., decided on 21.5.2001, 2001(2) AtJ 387 by which it was

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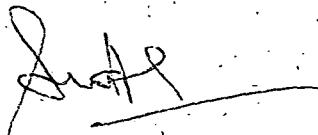
held that the order rejecting the prayer of the applicant for appointment on compassionate ground cannot be sustained on the ground that the family members of the deceased employee were given terminal benefits.

7. In catena of cases, Hon'ble Supreme Court has been of the view that while considering the candidature of applicant for appointment on compassionate ground, the department must examine the financial status and position as to whether the family of the deceased employee needs any help to survive or their exist any indigent circumstances in the family of the deceased employee who was only the bread earner of the family.

In the instant case, undisputedly, the widow has to maintain her family and her unmarried daughters who are pursuing their studies. The liability of marriage of the daughters and expenses on education of two daughters cannot be overlooked while considering the case of the applicant. Moreover, there is no bread earner in the family after the death of the deceased, Sh.Narain Singh. Therefore, in the facts and circumstances of this case and settled legal position, I am of the considered opinion that merely the widow was paid terminal benefits and she is getting family pension is no ground to deny the appointment on compassionate ground.

9. Therefore, in view of the facts and circumstances of this case, it is just and proper to direct the respondents to reconsider the candidature of the applicant for appointment on compassionate grounds.

8. I, therefore, quash the letter dated 25.9.2001 (Annx.Al) and direct the respondents to reconsider the candidature of the applicant for appointment on



compassionate grounds, within 3 months from the date of receipt of a copy of this order. If there is a waiting list, the name of the applicant may also be included and consider his case as and when his turn comes. No order as to costs.



(S.K. Agarwal)

Member (J).