

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 64/2002
T.A. No.

199

DATE OF DECISION 1.10.02

Manoj Kumar Singhal Petitioner

Mr. C.B. Sharma Advocate for the Petitioner (s)

Versus

Union of India and 2 others Respondent

Mr. N.C. Goyal Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr.

Justice G.L. Gupta, Vice Chairman.

The Hon'ble Mr.

A.P. Nagrath, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
- ✓ 2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? *Yes*

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR.

Original Application No. 64/2002

Manoj Kumar Singhal
S/o Late Shri Suresh Chand Singhal
r/o 199, Shiv Marg, Mansarovar
Colony, Kalwar Road, Jhotwara. : Applicant.

rep. by Mr. C.B. Sharma, Counsel for the applicant

-verses-

1. Union of India, through its Secretary to the Government of India, Department of Posts, Ministry of Communication Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur 302 007
3. Senior Superintendent of Post Offices, Jaipur City, Postal Division Jaipur- 302 006. : Respondents.

rep. by Mr. N.C. Goyal : Counsel for the respondents.

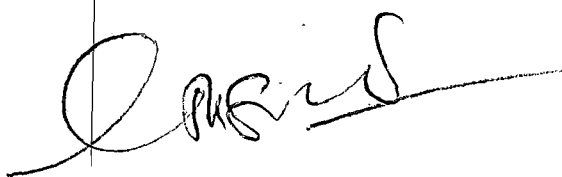
CORAM: The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
The Hon'ble Mr. A.P. Nagrath, Administrative Member.

Date of the order: 1.10.02

Per Mr. Justice G.L. Gupta,

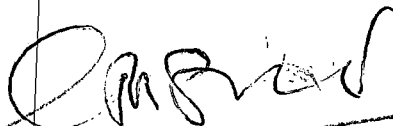
ORDER

Shri Suresh Chand Singhal, was employed in the Postal Department. While working as Deputy Superintendent of Post Offices, Jaipur City Postal Division, Jaipur, he expired on 18.1.96. The applicant is the son of late Shri Suresh Chand Singhal. He made an application to the respondents for providing him appointment on compassionate ground. The respondents



2 & 3 after considering all the facts and circumstances and condition of the family approved the candidature of the applicant for appointment on the post of Postal Assistant by relaxing the Recruitment Rules on compassionate grounds, vide communication dated 31.10.96 (Annex. A.2). The applicant waited for the appointment order for six years but did not get. He became over-aged in the month of May 2001. The respondent No. 3 informed the applicant vide letter dated 26.2.2001 (Annex. A.3) that no vacant post was available in the department and if he was interested to work in any other department of the Government of India, he should send his willingness in the prescribed proforma. The applicant responded in the affirmative vide communication dated 28.2.2001 (Annex. A.4). Vide communication dated 6.9.2001, (Annex A.1) ~~the respondents informed the applicant~~ that it was not possible to provide him appointment in the Postal Department due to non-availability of posts and if he was willing to work as Gramin Dak Sevak, he can be accommodated.

2. The case for the applicant is that the competent authority had approved his candidature for appointment on compassionate grounds in the year 1996 and therefore the respondents cannot be justified in denying him appointment as Postal Assistant more so when 400 posts of Postal Clerk are vacant in Rajasthan Circle. It is averred that the ban orders on filling up of the posts is not applicable to the compassionate appointment. It is also averred that the

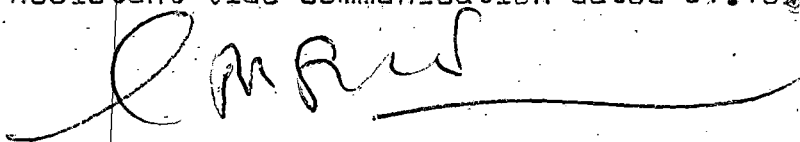


applicant is not in a position to manage himself and his mother without employment.

3. In the reply, the respondents have admitted that the Committee had considered the case of the applicant and had approved him for appointment as Postal Assistant on compassionate grounds on 16.9.96. It is averred that at that time no vacancy was available and thereafter a ban was imposed by the Ministry of Finance on filling up of vacant posts in the Department vide communication dated 5.8.99. It is further averred that as per the instructions in the OM dated 3.12.99, issued by the Department of Personnel and Training, appointment on compassionate grounds is available within the year and that too within the ceiling of 5% posts earmarked for direct recruitment. It is stated that pursuant to the Postal Department's letter dated 8.2.2001, the maintenance of waiting list has been discontinued and the wait listed candidates have been asked to express their willingness to work as Gramin Dak Sevak. It is also stated that the applicant has no legal right for appointment on compassionate grounds.

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

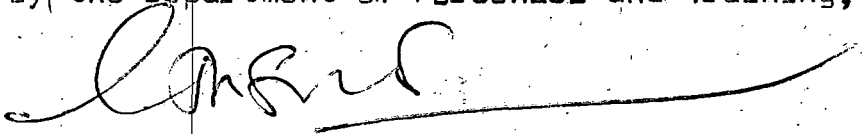
5. It is now admitted position of the parties that the applicant is the son of deceased employee, who had died in harness. It is further admitted position that the name of the applicant had been approved for appointment to the post of Postal Assistant vide communication dated 31.10.96. It was



in stated/the letter Annex A.2 that the allotment of Division would be intimated to the applicant separately. It has to be accepted that vide communication dated 31.10.96 (Annex A.2) a right had accrued to the applicant to get appointment on compassionate grounds. It is evident that the claim of the applicant for compassionate appointment was not rejected on the ground that the family of the deceased employee was not in financial crisis. Rather the claim of the applicant had been found acceptable in relaxation of the Recruitment Rules, for compassionate appointment. Therefore the respondents could not be justified in rejecting the claim of the applicant in the year 2001. It is significant to pointout that the applicant had already given his willingness for his appointment in any other Department under the Government of India vide his letter dated 28.2.2001(Annex. A.4).

6. It is evident from the letter (Annex. A.5) dated 10.11.2000, written by the Chief Post Master General, Rajasthan Circle to the Deputy Director General, Department of Posts, New Delhi, that as many as 296 posts of Postal Assistants were lying vacant in the Circle. Therefore, it cannot be accepted that the vacancy was not available in any of the Postal Divisions in Rajasthan Circle.

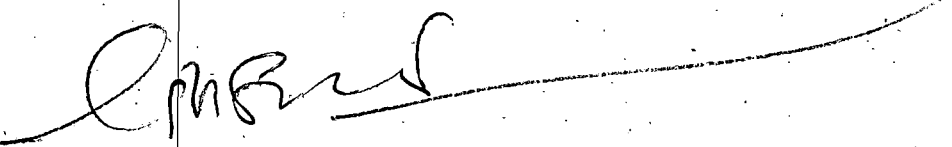
7. As to the plea of ban, imposed by the Ministry of Finance, it may be pointed out that in the Scheme for compassionate appointment, issued by the Department of Personnel and Training, vide



communication dated 9.10.98(Annex. R.7) it is clearly stated that ban order for filling up of the posts issued by the Ministry of Finance, is not applicable in the matter of compassionate appointment. It is further stated in the Scheme that eligibility is to be determined on the basis of date of application made for compassionate appointment. It is also provided in the Scheme that upper age limit can be relaxed wherever found to be necessary. It is provided in the Scheme that the object of the Scheme is to grant compassionate appointment to any one of the dependent family members of the Government servant who died in harness.

8. Admittedly, the applicant is the dependent son of the Suresh Chand Singhal, who died in harness. It is not the case for the respondents that the applicant has got enough means of livelihood or that the family of the deceased Government servant is not indigent. If some delay has been caused in the matter, it is because of the respondents. This fact cannot be lost sight of, that the case for compassionate appointment of the applicant was approved way back in the year 1996 and the applicant was given assurance of employment till 2001. It is only in September 2001, that he was informed that the appointment could not be given to him because of non-availability of vacancy.

9. We have seen that vacancies on the post of Postal Assistant were available in November 2000. It is not stated in the reply that vacancies stated in Annex. A.5 have been filled up. What is stated by the respondents is that the applicant could not be

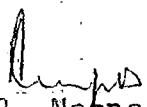


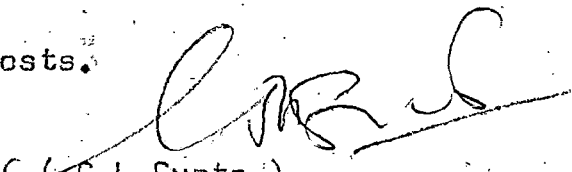
given appointment because of ban imposed by the Ministry of Finance for filling up the vacant posts. As already stated that under the Scheme of 1998, Compassionate appointment is exempted from the ban imposed by the Ministry of Finance.

10. Keeping in view the entire material on record and the Scheme Annex R.7, we think it a fit case, in which respondents should be directed to re-consider the case of the applicant for compassionate appointment.

11. Consequently, the application is allowed in part. The respondents are directed to re-consider the case of the applicant for compassionate appointment in the light of the observations made above within a period of 3 months from the date of communication of this order and pass a speaking order. The applicant be informed about the same within a period of two weeks.

12. No order as to costs.


(A.P. Nagrath)
Administrative Member


(G.L. Gupta)
Vice Chairman.

jsv.