

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR

Date of decision: 02.01.2004

OA No.130/2003

Pawan Kumar Sharma s/o late Shri Ladli Prasad Sharma, r/o
C-175 A Ranjeet Nagar, Bharatpur.

.. Applicant

VERSUS

1. Union of India through the Secretary to the Government, Department of Posts, Ministry of Communications, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, Department of Posts India, Rajasthan Circle, Jaipur.
3. The Superintendent, General Post Office, Bharatpur (Rajasthan).

.. Respondents

None present for the applicant.

Mr. B.N.Sandu - counsel for the respondents.

CORAM:

Hon'ble Mr. M.L.Chauhan, Member (Judicial)

ORDER (ORAL)

The applicant is aggrieved of the order dated 11.2.2003 whereby his application for appointment on compassionate grounds has been rejected. In relief, he has prayed for quashing the said order and also for appropriate directions to the respondents to provide compassionate appointment to the applicant for the post of Postal Assistant or any other equivalent post.

2. The case as made by the applicant in this OA is that father of the applicant late Shri Ladli Prasad Sharma who was working on the post of Superintendent Post Master at Vasan Gate Post Office, Bharatpur expired on 20.1.2002.

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It is further stated that the applicant is the only son of the deceased Govt. servant besides his mother. After the death of late Shri Ladli Prasad Sharma, mother of the applicant requested the respondents to provide appointment to the applicant vide application dated 5.2.2002 (Ann.A3). It is further stated that the applicant also submitted application dated 13.2.2002 (Ann.A4) for giving him compassionate appointment followed by reminder dated 20.2.2002 (Ann.A5) and the case of the applicant was placed before the Circle Selection Committee (CSC) on 21.1.2003. The CSC observed that as per educational qualification the applicant was eligible for compassionate appointment on the post of Postal Assistant but after objective assessment of the financial condition of the family, the CSC did not find the family in indigent condition and the case was rejected. The said decision was communicated to the applicant vide letter dated 11.2.2003 (Ann.A1). This letter contained the following reasons for rejection of his case:-

- "1. The ex-official expired on 20.1.2002.
2. As per synopsis, the Ex-employee had left his wife and one married son (applicant).
3. As per educational qualification, the applicant was eligible, for appointment on compassionate grounds on the post of Postal Assistant.
4. The family is getting family pension amounting to Rs. 3718 + DR p.m.
5. The family had received terminal benefits to the tune of Rs. 4,91,390/-.

The Committee considered the case in the light of instructions issued by DO P&T OM dated 9.10.98 followed by clarification issued vide OM dated

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3.12.99, 20.12.99, 28.12.99 and 24.11.2000 and vacancy position of the cadre.

The Committee after objective assessment of financial condition of the family did not find the family in indigent condition and hence the case was rejected."

Feeling aggrieved by the aforesaid decision, the applicant has filed this OA for the aforesaid reliefs.

3. Notices of this application were given to the respondents, who have contested this application by filing reply. In the reply, it has been stated that the applicant submitted an application on 13.2.2002 for appointment under relaxation of rules on compassionate grounds in the Department of Posts alongwith his qualification certificates, death certificate and affidavit. The whole case of the applicant was forwarded to the office of Chief Postmaster General, Rajasthan Circle, Jaipur vide letter dated 21.2.2002. The case was considered by the CSC in its meeting held on 21.1.2003 and keeping in view the financial condition, liability, other source of income and vacancy position, the case of the applicant was rejected for the reasons mentioned in the impugned order. It is further stated that the Committee in its meeting held on 21.2.2003 considered the case of the applicant alongwith 43 other cases against the vacancies which is 5% of 34 vacancies approved by the screening committee for direct recruitment quota in the light of the instructions issued by the DO P&T dated 9.10.98 followed by clarification issued vide OM dated 3.12.99, 20.12.99 and 24.11.2000 and 4.7.2002. The Committee after objective assessment of the financial condition of the family did not find the family

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in indigent condition, as there is no liability of marriage of the daughter and education of minor. Besides that, the applicant has attained the age of 32 years on the date of death of the deceased employee and he is having his own family, which cannot be said to be dependant on the deceased employee, hence the case was rejected.

4. The applicant has filed rejoinder. In the rejoinder, it has been stated that compassionate appointment cannot be substituted by family benefit scheme and compassionate appointment cannot be denied on the ground that the applicant's family will be getting certain benefits on account of the death of the employee. The age of the applicant cannot be a ground of rejection of the application on compassionate grounds.

5. None has put in appearance on behalf of the applicant. I have heard the learned counsel for the respondents and gone through the material placed on record.

5.1 At the outset, it may be stated that the applicant in his OA has nowhere pleaded that the family is facing financial destitution and the family would not be able to survive unless some source of livelihood is provided. Rather the ground taken by the applicant in para 5(f) is in the following terms:-

"That the respondents has failed to consider the proper aspect of the matter that family pension and the terminal benefits provide to the family of the deceased employee are not sufficient and that could not improve the status of the

applicant who is an unemployed youth and if the appointment is provided to him then whole of the family will be benefited."

Thus from the portion as quoted above, it is clear that the applicant has challenged the impugned order on the ground that the CSC has failed to consider the case in proper aspect of the matter and terminal and other benefits given to the family would not improve the status of the applicant who is unemployed youth.

5.2 It may be stated that it has been judicially settled by the Apex Court that appointment on compassionate grounds is exception to the general rules. Such exception in favour of the dependants of employees dying in harness can be considered on pure humanitarian consideration, in cases where the family would not be able to make both ends to meet unless provision is made in the rules to provide gainful employment to one of the dependent of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The Govt. or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. Thus the submission made by the applicant that the terminal benefits provided to the family of the deceased employee are not sufficient to reject the case of the applicant, is without basis.

5.3 As can be seen from the impugned order, portion of which has been quoted above, the family is getting family pension of Rs. 3718/- + DR per month and also has

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received terminal benefits to the tune of Rs. 4,91,390/-. The family consists of widow and the applicant, who at the relevant time was married, and thus was not the liability of the family of the deceased. In the reply, the respondents have categorically stated that the case of the applicant alongwith 43 other candidates were considered against the vacancies which is 5% of 34 vacancies approved by the screening committee for direct recruitment quota. Thus, literally there were only 2 vacancies which were required to be filled in from most deserving cases. In such circumstances, if the CSC has rejected the case of the applicant taking into consideration not only the terminal and financial benefits received by the family but also keeping in view the size of the family and that there was no other liability such as unmarried daughter, minor members, education of children etc., no infirmity can be found in the impugned order.

5.4 As already stated above, the applicant has not pleaded that the family is facing financial destitution and the family would not be able to make both ends to meet unless some source of livelihood is provided. This is the sole criteria for adjudging the case of a claimant for appointment on compassionate grounds. As such, no infirmity can be found in the impugned order. Simply because the deceased has died in harness and as such the member of the family is entitled to get appointment on compassionate grounds as a matter of right, cannot be taken a ground for granting the relief. A person claiming appointment on compassionate grounds has to make out a case that the family is facing financial destitution and the object is not to give a post where the family is not facing the financial crisis at the time of death of the

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deceased. At this stage, it will be useful to refer to the observations made by the Apex Court in the case of Umesh Kumar Nagpal vs. State of Haryana and ors. JT 1994 (3) SC 525 whereby the Apex Court has held that as a rule, appointments in the public service should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Government nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exception carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment.

6. Viewing the matter in the light of the ratio as laid down by the Apex Court in the case of Umesh Kumar Nagpal (supra) and also keeping in view the findings as recorded above, I am of the view that the applicant has not made out any case for grant of compassionate appointment. Accordingly, the OA is dismissed with no order as to costs.


(M.L. CHAUHAN)

Member (Judicial)