

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 195/2003

DATE OF ORDER: 8.1.2004

Smt. Kavita Pamami wife of Late Shri Kailash Chandra Pamami
by caste Pamami, Aged about 42 years, Resident of D-197,
Vidhya Dhar Nagar, Jaipur.

.... Applicant

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Senior Superintendent, Railway Mail Service, Opposite All India Radio, Mirja Ismail Road, Jaipur.

.... Respondents

Mr. P.N. Jatti, Counsel for the applicant.
Mr. N.C. Goyal, Counsel for the respondents.

CORAM:

Hon'ble Mr. R.K. Upadhyaya, Member (Administrative)
Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER (ORAL)

This Application u/s 19 of the Administrative Tribunal's Act, 1985 has been filed claiming compassionate appointment on the death of the husband of the applicant. The applicant's husband, Shri Kailash Chandra Pamami, was an employee of the respondents as Sorting Assistant in Railway Mail Service. He died in harness on 5.12.1996. It is stated that the applicant approached the respondents for compassionate appointment immediately after the death of her husband. She was under the impression that she will get employment. She had been making

Subscribed

repeated requests which had ultimately been rejected vide impugned order dated 6.3.2003 (Annexure A/1). The reasons given for rejection are that the applicant could not be considered to be in indigent condition. She was in receipt of the family pension. She ~~is~~ has also received the terminal benefits after the death of her husband.

2. The learned counsel for the applicant has stated that this is a case where compassionate appointment should be granted to the applicant. The widow has to support not only to herself but also to her four children who are minor at the time of the death of the deceased employee. The learned counsel also invited our attention to the Government of India, Department of Personnel & Training O.M. dated 5.5.2003 (Swamy's News July 2003) in which it has been stated that the case of the applicant should be reviewed ^{within} ~~after~~ three years. According to the learned counsel for the applicant, the respondents should review the case of the applicant and provide compassionate appointment to the applicant being most deserving case.

3. The respondents have filed the reply in which they have opposed the prayer of the applicant. It has been stated that the object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government Servant dying in harness to relieve the family of the Government Servant concerned from financial destitution. Since there were no vacancies, even though the applicant's case might be deserving case, she could not be granted compassionate appointment. It is further pointed out that appointment on compassionate appointment can be given within the ceiling of 5% of vacancies falling under direct recruitment quota within a year and the applicant case could not be considered so meritless to come within that limit.

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4. We have considered the arguments of the learned counsel for the parties and also have perused the material available on record.

5. The object of the Scheme is to give ~~give~~ financial help to the surviving members of the family of the deceased employee. The O.M. dated 5.5.2003 merely states that if there is no vacancy within the first year of the death of the deceased employee, the case should be reviewed upto three years. It does not state that once prayer of rejection has been communicated to the applicant, the same should be again considered for next two years. The applicant in the present case died in 1996. The applicant has filed this Application on 29.4.2003. The learned counsel for the applicant explained that this application has been filed after receipt of the rejection of the request of the applicant. If the applicant made a request and it was not granted, the same should be filed before this Tribunal within a reasonable time as provided u/s 21 of the AT Act, 1985. Even though, we do not intend to dismiss this applicatio on limitation but we have considered the other provisions of the Scheme. This Scheme ^{provides} ~~says~~ for making financial help to the applicant and other dependants of the deceased Govt. Servant. This should be done immediately after the death of the Govt. Servant. The delay itself defeats the object of the Compassionate Appointment. The Hon'ble Supreme Court in the case of Sanjay Kumar Vs State of Bihar reported in 2000(7) SCC 192 held that the claim of compassionate appointment at belated stage could not be granted. Even in the case of Omsh Nagpal vs. State of Haryana 1994(2) SLR 677 have held that the compassionate appointment cannot be claimed as a matter of right. It has to be seen on the actual facts of the case. Considering the financial condition of the family of the deceased and on consideration of the entire facts of this case, particularly the fact that applicant's husband died in 1996, we do not find any justification to direct the respondents to

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respondents to reconsider the case of the applicant at this belated stage.

6. In the result, this OA is dismissed without any order as to costs.



(BHARAT BHUSHAN)
MEMBER (J)



(R.K. UPADHYAYA)
MEMBER (A)