

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Date of decision: 26th February, 2004

OA No.216/2003

Narendra Singh Chauhan s/o late Shri C.S.Chauhan, aged about 33 years, r/o Flat No.382, Gali No.10, Barkat Nagar, Tonk Phatak, Jaipur, aspirant of appointment on compassionate grounds on the post of Lower Division Clerk/Postal Assistant.

.. Applicant

Versus

1. Union of India through its Secretary to the Govt. of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Director of Accounts (Postal), Tilak Nagar, Jaipur

.. Respondents

Mr. C.B.Sharma - counsel for the applicant.

Ms. Rajeswari, proxy counsel to Mr. N.C.Goyal, counsel for the respondents.

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

[Signature]

O R D E R

PER HON'PLE MR. M.L.CHAUHAN.

The applicant has filed this OA thereby
praying for the following reliefs:-

- "(i) That the entire record relating to the case be called for and after perusing the same respondents may be directed to reconsider and to give appointment to the applicant on the post of Lower Division Clerk/Postal Assistant or on any suitable post on compassionate grounds by quashing letter dated 10.3.2003 (Annexure-A/1) with all consequential benefits.
- (ii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iii) That the costs of this application may be awarded."

2. Facts of the case are that the applicant is the son of late Shri C.S.Chaudhary, who was a substantive employee of the Postal Department. While working on the post of Senior Accountant in the office of respondent No.3, the father of the applicant expired on 22.12.2001. At the time of death of the father of the applicant, the family consists of following members:

1. Smt. Kamla Devi - widow
2. Narendra Singh Chauhan- Son (applicant)
having date of birth 22.1.1970.
3. Balwant Singh- Son, having date of birth 3.8.1976.
4. Anuradha- Daughter, having date of birth 9.10.1977.

2.1 It is further the case of the applicant that vide his application dated 29.1.2002 (Ann.A3), the applicant requested the respondents to give him appointment on the post of Lower Division Clerk/Postal Assistant. It is further stated that the mother of the applicant and other family members submitted all the information as desired by the Postal Authorities and after obtaining the information, case for appointment on compassionate grounds was considered and rejected vide letter dated 10.3.2003 taking into consideration the terminal benefits. Vide the impugned order, it was held that the family is not in indigent condition, in spite of the fact that the respondents had vacant post with them. Copy of the rejection letter has been placed on record as Ann.A1. From perusal of Ann.A1, it is clear that the case of the applicant for compassionate appointment was placed before the Committee and the Committee rejected the same on the following grounds:-

- "1. The official expired on 22.12.2001.
2. As per synopsis, the ex-employee had left his wife and one married son and

4

: 4 :

one unmarried daughter and son.

3. The family is getting family pension amounting to Rs. 3775/- + D.R. p.m.

4. The family had received terminal benefits to the tune of Rs. 736862.

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."

It is this order which is under challenge in this OA and the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The respondents have filed detailed reply. In the reply, it is submitted that the case of the applicant was considered keeping in view his educational qualification and he was found eligible for the post of Postal Assistant. Accordingly, his case was submitted to the Circle Relaxation Committee (CRC, for short) on 21.1.2003. The CRC considered the case of the applicant as per existing rulings and instructions on compassionate appointment contained in the Department of Personnel and Training Office Memorandum dated 9.10.1998 followed by clarification issued vide OM dated 3.12.1999, 20.12.1999, 28.12.1999 and 24.11.2000, copies of these Memos have been placed on record as Ann.F1 to F5. After considering the matter in

66

: 4 :

one unmarried daughter and son.

3. The family is getting family pension amounting to Rs. 3775/- + D.R. p.m.

4. The family had received terminal benefits to the tune of Rs. 736862.

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."

It is this order which is under challenge in this OA and the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The respondents have filed detailed reply. In the reply, it is submitted that the case of the applicant was considered keeping in view his educational qualification and he was found eligible for the post of Postal Assistant. Accordingly, his case was submitted to the Circle Relaxation Committee (CRC, for short) on 21.1.2003. The CRC considered the case of the applicant as per existing rulings and instructions on compassionate appointment contained in the Department of Personnel and Training Office Memorandum dated 9.10.1998 followed by clarification issued vide OM dated 3.12.1999, 20.12.1999, 28.12.1999 and 24.11.2000, copies of these Memos have been placed on record as Ann.R1 to R5. After considering the matter in

44

entirety, it was found that the family is not in indigent condition and hence the case of the applicant was rejected. In para 4(6) of the reply, the respondents have also stated that the family of the deceased has received the admissible terminal benefits of Rs. 7,36,862/- and the family is also getting family pension amounting to Rs. 3775/- plus DA Rs. 2076/- per month. This is more than the pay of a newly appointed LDC in the Government service. Besides, both the sons of the deceased employee are major and can assist the family to meet the liability of marriage of daughter of deceased employee. Sons and daughter of the deceased employee had got their education up to Post Graduation level before the death of the employee, as mentioned by the applicant in the form requesting for appointment on compassionate grounds. The claim of the applicant was not only rejected on the grounds of the terminal benefits but also on the ground of non-availability of vacancy, as there are only two vacancies for appointment on compassionate grounds as per ceiling of 5% prescribed by the DOPT OM dated 3.12.1999 (Ann.R2) and further clarified vide OM dated 16.5.2001 (Ann.R5), 22.6.2001 (Ann.R7) and 4.7.2002 (Ann.R8). The case of the applicant was considered with 43 other cases. Two cases which were found most indigent among them were recommended by the CRC as per instructions contained in the above mentioned OMs and remaining cases including the case of the

4

: 6 :

applicant were rejected due to non-availability of vacancies.

4. The applicant has filed rejoinder but he has not controverted the allegations levelled by the respondents.

5. I have heard the learned counsel for the parties and considered the material placed on record.

5.1 The contention of the learned counsel for the applicant is that his case has been rejected solely on the ground of terminal benefits received by the family and as such the same could not have been ground for rejection of the case, whereas the matter was required to be considered in the light of para 16 (c) of OM dated 9.10.1998. The learned counsel for the applicant further argued that there is no earning member in the family and there are vacancies in the Department, as such, it was incumbent upon the respondents to offer appointment to the applicant.

5.2 I have considered the submissions made by the learned counsel for the applicant and is not inclined to agree with the same. The case of the applicant has not been rejected solely on the basis of terminal benefits, as can be seen from the impugned order dated 10.3.2003 (Ann.A1). The size of the family was also taken into consideration besides terminal benefits. The family has received total terminal benefits

4

amounting to Rs. 7,36,862/- which fact is not disputed by the applicant. Besides this, the family is drawing family pension amounting to Rs. 5851 per month (Rs. 3775 + DA Rs. 2076). Though the applicant has made vague statement in the OA that the terminal benefits have been spent on the loan taken during the life time of the deceased and also after the death on matrimonial functions and study of brother and sister and remaining amount will be required for marriage and other matrimonial function of the family in near future. This indicate that even for future liability the family is in possession of terminal benefits and there is no other financial liability with the family. Admittedly, the widow is getting Rs. 5851/- as total amount of family pension per month. Under these circumstances, it cannot be said that the family is in such an indigent circumstances, which warrants appointment on compassionate grounds. As such, the finding given by the CRC and as conveyed to the applicant vide Ann. Al that the family is not in indigent condition cannot be interfered. As already stated above, the respondents have categorically stated that as against two vacancies, cases of 43 persons including the applicant were considered and two cases, which were found most indigent, amongst them were recommended by the CRC keeping in view the instructions issued by the DOPT vide their OMs issued from time to time. As such no exception can be found in case the case of the applicant

was rejected by the CRC. Thus, I am of the view that the applicant is not entitled for any relief and the case of the applicant has been rightly rejected by the CRC taking into account not only the financial condition of the family but also the age of the members, size of the family, future liability and other essential needs of the family. The mere fact that none of the family members is in Government service does not ipso-facto entitle the applicant for appointment on compassionate grounds as it has been settled by various decisions of the Hon'ble Apex Court that a job on compassionate grounds cannot be offered as a matter of course irrespective of financial condition. The compassionate appointment is given to a family member of the deceased to tide over the sudden crisis resulting due to death of the sole bread winner, who left the family in penury and without means of livelihood. This is not the case of such nature.

6. Accordingly, the OA is dismissed with no order as to costs.


(M.L.CHAUHAN)

Member (J)