

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 22-4-04

OA 217/2003

Hemraj Mahavar s/o late Shri Mohan Lal r/o 365, Gandhi Colony, Brahmpuri, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Department of Post, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Sr.Supt. of Post Offices, Jaipur City Division, Jaipur.

... Respondents

CORAM:

HON'BLE MR.A.K.BHANDARI, MEMBER (A)

For the Applicant

... Mr.Bhupendra Pareek

For the Respondents

... Mr.S.R.Samota, proxy counsel for  
Mr.T.P.Sharma

ORDER

PER HON'BLE MR.A.K.BHANDARI

This OA u/s 19 of the Administrative Tribunals Act, 1985 is filed against the impugned order dated 3.3.2003 (Ann.A/1), by which the respondents have declined to give compassionate appointment to the applicant.

2. Facts of the case are that applicant's father, a Driver in Post & Telegraph Department, expired on 14.7.96 while in service and left behind besides his widow, four unmarried sons and five unmarried daughters. At the time of death, pensionary benefits were given. However, family pension which at the time of death was Rs.2304/- per month upto 2.2.02 was reduced by half thereafter as per rules. The family of ten members in these circumstances are finding it difficult to make both ends meet without an earning member. The applicant being eldest son of the deceased government servant made an application for compassionate appointment alongwith relevant details of family assets and liabilities including affidavit in support of the same to the respondents. Applicant also reminded the



respondents that he worked as ED for a period of six months in a make shift capacity and due consideration of this fact also be taken while considering his case of compassionate appointment but no response was received. He then submitted a few more reminders as the family was passing through very difficult situation. The fact of reduction of family pension by half was also repeated. It is then alleged that due to extraneous consideration the application was continued to be delayed by the respondents for about seven years and finally rejected by them on 3.3.2003 for wholly wrong reasons stated therein. In grounds taken by the applicant it is stated that due to indigent circumstances, the applicant is entitled to receive compassionate appointment as per the objects of the scheme. That his application was submitted in time, but the respondents for the reasons best known to them delayed the matter. The liability of the family are acute and self explanatory in its description namely five unmarried sisters and half family pension. In such circumstances, denial of compassionate appointment is arbitrary and illegal. It is further stated that the conclusion of the respondents that applicant owns a house to live in is wrong because they live in a small kachcha house situated at Gandhi Colony Kachchi Basti. It is a small patch of land measuring 40 sq.yds. and one room which can hardly be called a house worth living in for ten souls. That in these circumstances, compassionate appointment has been unjustifiably denied. Learned counsel for the applicant also cited a decision of this Bench of the Tribunal in OA 103/2000, Trivendra Kumar Sharma v. Union of India & Ors., decided on 7.9.2000, in which for similar circumstances OA was allowed and the respondents were directed to consider the case for compassionate appointment within three months. In the end, it is stated that this OA may also be allowed.

3. The respondents have given a copious reply justifying their action. It is stated that the liabilities and assets of the family were objectively assessed by the selection committee while taking a considered view over all the pending applications put up to them for consideration. The widow of

the deceased government servant was getting pension of Rs.1275/- + DR per month and had received terminal benefits to the tune of Rs.109365/-. While considering the matter the committee took a note of all the instructions of the Government in this regard contained in DOPT OMs dated 9.10.98, 3.12.99, 24.11.2000 & 22.6.2001 (annexed as Ann.R/1 to R/4). That instructions on the subject stipulate that the appointment on compassionate grounds is intended to provide immediate assistance to the family of the government servant who dies in harness leaving his family in financial crisis and that the scheme is not intended to ensure that in each and every case a member of the family of the deceased employee is given government employment. The fact of temporary appointment on the one post of ED is accepted and it is stated that the same was also given in view of the indigent circumstances in year 2002. But considering this fact while deciding the compassionate appointment case would have been violation of extant rules. The fact of representations dated 10.7.2002, 8.1.2003 and 29.1.2003 are denied by the respondents. It is also stated that the committee considered the case in light of instructions that the recommendations have to be confined to the number of vacancies available i.e. 5% of the direct recruitment during the year only and in view of non-availability of vacancy only the most indigent case has to be recommended. Thus, the committee took into account all the facts in consideration relating to the case as well as availability of vacancies and examined the matter within the parameters of upto date instructions. The provision of maintaining waiting list had been discontinued as per rules and only that many cases can be recommended as the number of vacancies are available within a year and in view of more indigent case available to the committee for consideration the case of the applicant had to be turned down.

4. Replying to the grounds, illegality and arbitrariness are denied in view of meticulous compliance of rules on the subject. The respondents do not dispute that the financial condition fo the family is bad but a case of worse condition than that of the applicant was also available to the

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committee for consideration and, therefore, the applicant's case could not be considered favourably. Regarding fact about owning a house, it is stated that the same is borne out in the documents submitted by the applicant including the affidavit and for this reason the respondents cannot be blamed.

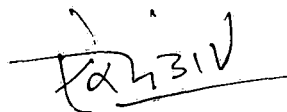
5. During the arguments it was contended that delay of more than six years in considering the case whereby well deserved immediate relief to the family of the deceased government servant could not be given as per government policy and now ground of no need of such relief is misplaced. It is also contended that DOPT guidelines quoted by the respondents which are of period of 1998 and subsequent to it and they place many restrictions on the respondents would not have become applicable to the applicant had the same been taken up diligently by the respondents. He also repeated the poor condition of the family giving all facts stated in the application including reduced family pension. During arguments it also transpires that the applicant is now 25 years of age and as per earlier judgements of this and coordinate Benches of CAT, he is now ineligible for compassionate appointment. This contention of the respondents was refuted by the learned counsel for the applicant by stating that at the time of application he was not 25 years of age and the delay by respondents has now reached him to this age. Therefore, these judgements would not apply to the instant case. Learned counsel for the respondents refuted this contention by saying that documentation and other formalities were completed in 1999 but the case could be referred to the Circle Selection Committee (CSC) only on availability of vacancies and this is how the delay is explained. But the committee did not find the financial condition of the applicant's family indigent enough to justify compassionate appointment and that at the time of consideration of this OA he is 26 years of age. Therefore, he being more than 25 years of age, the claimed relief cannot be granted to him. It was also stated that pensionary benefits alone have not been made the ground for rejection. Non-availability of vacancy, no provision of waiting

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list and case with more indigent circumstances also available for consideration were the major considerations. In these circumstances, there is nothing wrong in the impugned order.

6. I have given careful consideration to all the facts of the case and find that procedurally and in the matter of application of rules available on the subject the respondents have not made any mistake. It has also been satisfactorily explained that the objective assessment of the indigent circumstances did not justify any compassionate appointment to the applicant because a case with worse indigent circumstances was also available and considered by the CSC. The fact of limited number of vacancies available for compassionate appointment is also explained by them. The fact about owning a kachcha or pakka house is in dispute between the contending parties but if the other person in consideration does not own even a kachcha house, the decision is bound to go in his favour. The case of Trivendra Kumar Sharma (supra), decided favourably by this Bench of the CAT, cited by the learned counsel for the applicant, was looked at and it is found that it is distinguishable with the facts of this case in many ways. It can also not be ignored that at the time of decision of this OA the applicant is more than 25 years of age. In view of these <sup>facts,</sup> even though the circumstances of the applicant appear deserving, the relief cannot be granted.

7. Therefore, the OA is dismissed with no order as to costs.



(A.K.BHANDARI)

MEMBER (A)