

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIFUR BENCH

JAIPUR

Date of decision: 09.12.2003

OA No.227/2003

Mahesh Shrimal s/o late Shri S.L.Shrimal r/o plot No.23,
Shiva Colony, Near Laxmi Mandir Tonk Phatak, Jaipur,
aspirant of appointment on compassionate grounds on the
post of 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 Postmaster General, Rajasthan Circle, Jaipur-7.
3. Senior Supdt. of Post Offices, Jaipur City Postal Division, Jaipur.

.. Respondents

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

Mr. S.R.Samota, proxy counsel to Mr. Tej Prakash Sharma, counsel for the respondents.

CORAM:

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

ORDER (ORAL)

The applicant is aggrieved of the order dated 5.3.03 (Ann.A1) 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 reconsider his case for appointment on compassionate grounds, on various grounds stated therein.

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2. The case of the applicant, as made out by the applicant in this OA, is that father of the applicant late Shri S.L.Shrimal who was a substantive employee of the Postal Department and was working on the post of Postal Assistant in the office of respondent No.3 expired on 4.6.2001. The late father of the applicant left behind the following members of the family:-

1. Smt. Vimla Devi - Widow
2. Shri Devendra Kumar Shrimal - Elder son married - living separately.
3. Mahesh Shrimal - Son (applicant) having date of birth 1.6.1981.

2.1 After the death of late Shri S.L.Shrimal, the mother of the applicant requested to respondent No.3 to provide appointment to the applicant on the post of Postal Assistant vide letter dated 15.12.01 (Ann.A3). Ultimately, the said application was rejected vide the impugned order dated 5.3.03 for the following reasons as contained in the impugned order:-

- "(1) The ex-official expired on 4.6.2001.
- (2) As per synopsis, the ex-employee had left his wife one married son and one unmarried son.
- (3) As per educational qualification, the applicant was eligible for appointment on compassionate grounds on the post of Postal Assistant cadre.
- (4) The family is getting family pension amounting to Rs. 3475 + D.R. per month.
- (5) The family had received terminal benefits to the tune of Rs. 11,15,269/-.
- (6) In assets, the family has own house to live in.

The committee considered the case in the light of

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the instructions issued by DO F&T OM dated 9.10.98 followed by clarification issued vide OM dated 3.12.99, 20.12.99, 26.12.99 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."

3. The respondents have contested this application by filing reply. In the reply, it has been stated that the widow of the deceased employee is getting family pension amounting to Rs. 3475/- + D.R. per month and terminal benefits to the tune of Rs. 11,15,269/- has been paid to the family of the deceased employee and elder son of the deceased employee is MBPS Doctor who can assist the family to meet the future liabilities. Therefore, the financial position of the family cannot be said to be indigent. The case of the applicant was considered by the Circle Selection Committee as per instructions on compassionate grounds in DOF&T OM dated 9.10.98 and OM dated 3.12.99.

The instruction on the scheme stipulates that the appointment on compassionate grounds is intended to provide immediate assistance to the family of the deceased employee who dies in harness leaving his family in financial crisis. The scheme is not extended that a member of a family is appointed in each and every case. The compassionate appointments are given only in hard and really deserving case. The committee after objective assessment of financial condition of the family and did not find the case fit for appointment on compassionate grounds keeping in view the vacancy available for the purpose. Thus the order dated 10.2.2003 (Ann. A1) is not

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arbitrary, unjustified for not providing appointment on compassionate grounds. The copy of the DOFT OM dated 9.10.99 and 3.12.99 are submitted herewith and marked as Ann.R1 and R2.

4. The learned counsel for the applicant stated that he does not want to file rejoinder, as such the matter was heard at admission stage.

5. The main contention of the learned counsel for the applicant is that the family is in indigent condition as the terminal benefits have already been spent on loan taken during the life time of the father of the applicant and anyhow the family is being maintained by the family pension and terminal benefits and remaining amount will be required for marriage and matrimonial function of the family in near future. It is further contended that the respondents have vacancy in the establishment and appointment can be provided to the applicant.

6. I have considered the submissions made by the learned counsel for the applicant and is not inclined to accept the same. Indeed, it cannot be disputed that the main object of appointment on compassionate grounds is to relieve the family from financial destitute provided that the family would not be able to make both ends meet unless some source of livelihood is provided. Under these contingencies, a provision has been made in the rules to provide gainful employment to one of the dependents 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

object is not to give a member of such family a post where the family is not facing the financial crisis at the time of death of the deceased.

6.1 As can be seen from the impugned order, portion of which has been quoted above, the family is getting family pension amounting to Rs. 3475 + D.A. per month and also has received terminal benefits to the tune of Rs. 11,15,269. The family has its own house to live in. The family of the deceased consist of widow and two sons including the applicant. The elder son of the deceased is MBBS Doctor who can assist the family to meet the future liabilities. In such a situation, it cannot be said that the financial condition of the family is such which may require immediate assistance and the family is facing economic distress, even if it is assumed that one of the son of the deceased Govt. servant is living separately and some of the terminal benefits has been spent on loan taken during the life time of the father of the applicant (although the applicant has not submitted any detail of the amount spent out of the terminal benefits of Rs. 11,15,269). In fact the matter is squarely covered by the observations made by the Hon'ble Apex Court in the case of Umesh Kumar Nagpal vs. State of Haryana and ors. JT 1994 (3) SC 525 whereby the Apex Court in para 2 has held as under:-

"2. The question relates to the considerations which should guide while giving appointment in public service on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. 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 Governments 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 exceptions 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 dependents 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 object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government 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

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to be offered to the eligible members of the family. The posts in Class-III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned."

7. In view of what has been stated above and also in view of the law laid down by the Apex Court in the case of Umesh Kumar Nagpal (*supra*), the applicant has not made out any case for grant of compassionate appointment. Accordingly, the OA is dismissed at the admission stage.


(M.L.CHAUHAN)
Member (J)