

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

Date of Order : 04/03/04

Original Application No.339/2003.

Ashok Kumar Bhagat son of Late Shri S. H. Bhagat by caste Nai, aged about 19 years, resident of Bhawani Posa, Bohora Ka Mandi, Purana Ghat, Agra Road, Jaipur.

... Applicant.

v e r s u s

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Sr. Supdt. Post Offices, Jaipur City Dn. Jaipur.

... Respondents.

Mr. P. N. Jatti counsel for the applicant.  
Mr. N. C. Goyal counsel for the respondents.

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Hon'ble Mr. A. K. Bhandari, Administrative Member

: O R D E R :

PER HON'BLE MR. A. K. BHANDARI

This OA u/s 19 of the Administrative Tribunal's Act, 1985, has been filed to seek the following reliefs :-

"That by a suitable writ/order or direction the impugned order dated 4/5.3.2003 be quashed and set aside and further the respondents be directed to provide the job to the applicant on the base of the compassionate grounds."

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2. The applicant, Shri Ashok Kumar Bhagat's father, Shri Satya Narain, was an employee of Department of Posts in Group 'D'. While posted at Jawahar Nagar Post Office, he died on 27.4.1996. The mother of the applicant submitted an application to the respondents for appointment of his son, Ashok Kumar, the present applicant, but he was minor at that time. The other children, were also minor. The mother of the applicant expired on 18.2.1999. The applicant thereafter submitted an application for compassionate appointment on 21.9.2001 stating all the indigent circumstances in which he was passing through but the same was rejected by the respondents by their order dated 5.3.2003 (Annexure A/1).

3. It is further stated that the application submitted to the respondents was comprehensive in its contents explaining the terrible condition through which the children of the deceased Govt. employee were passing through. All the documents which are required to be attached to the application like Death Certificate, educational qualification, Affidavit in which responsibility to look after the family members of the deceased Govt. employee etc. were attached to it. But the consideration of the same has not been correctly done and the same has been rejected arbitrarily. Even now they are living in penury and hence this OA has been filed.

4. In the grounds, the indigent circumstances have once again been emphasised. It is also alleged that the Screening Committee has not taken objective view due to which they have failed to take notice of them. That younger sister, Mohini Bhagat and younger brother Purushottam Bhagat, both are studying in school and that he is the only

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one, capable of taking up remunerative employment. Unless a job is given to him they are bound to leave the school. That family is not in a possession of its own house and they have to pay Rs.800/- as rent per month plus water & electricity charges. The delay in filing the application has been explained by repeating that he was minor at the time of his father's death in April 1996 and the application was submitted as soon as he attained the age of 18 years. In Para No.5, of the application it is stated that the letter of rejection dated 5.3.2003 has been issued in a very mechanical manner.

5. The respondents have submitted an elaborate reply. They have admitted the facts about the death of Shri Satya Narain Bhagat and submission of application for compassionate appointment by his wife when Shri Ashok Kumar was minor and the subsequent application dated 21.9.2001 filed by the applicant. It is stated that as per education qualification, applicant was suitable for the post of Postal Assistant. That the application was submitted to the Circle Relaxation Committee which met on 21.1.2003. The Committee considered the application as per the existing rules and instructions on the subject contained in Department of Personnel & Training Memos dated 9.10.1998, 3.12.1999, 20.12.1999, 23.12.1999 and 24.11.2000, copy of which have been annexed as Annexure R/1 to R/5. It is explained that the scheme for compassionate appointment is intended to provide immediate assistance to the family of a Govt. servant who dies in harness thereby leaving his family in trauma & financial crises. However, the scheme is not intended to ensure that in each and every case, a

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member of the family of the deceased Govt. employee gets employment. While considering such cases, the Committee is required to look into the case, keeping in mind the availability of vacancies for such appointment and it should limit its recommendation to only the most deserving cases. The rules stipulate that only 5% of the vacancies falling under direct recruitment quota within a year can be made available for compassionate appointment. It is also clarified that as per latest instructions, Department can no longer refer its cases to other Department for consideration and under no circumstances, the Committee can exceed its recommendation, beyond the limit of 5% of the direct recruitment vacancies available in a year. Copies of further instructions in regard to compassionate appointment have been annexed as Annexure R/6, R/7 and Annexure R/8.

6. It is further stated that the Screening Committee, which met on 21.1.2003 considered according to 34 vacant posts of Postal Assistants/Sorting Assistants for the year 2001. Keeping in view the ceiling of 5% of it, two vacancies i.e. 5% of the total number of vacancies have been ear-marked for compassionate appointment in Postal Assistant/Sorting Assistant Cadre. Only the most deserving and indigent cases after the objective assessment were recommended and the remaining cases had been rejected due to non availability of vacancies. In proof of this, copy of the Deliberation of the Screening Committee which met on 21.1.2003 is annexed as Annexure R/10. The operative line of this reads as under :-

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"After comparative assessment of the financial condition and liabilities of the deceased's families as per chart annexed, the Committee recommends following cases for appointment on compassionate grounds under relaxation of normal recruitment rules.

S.No.	File No.	Name of Candidate	Post for which recommended for appointment
1.	Rectt./4-40/2001	Sh. Anup Saxena S/o Late Sh.A. K. Saxena	Postal Assistant Cadre
2.	Rectt./4-50/2001	Miss Chanda Kumar D/o Late Sh. Mahendra Singh	Postal Assistant Cadre
3.	Rectt./4-33/2001	Smt. Dhakka Devi W/o Late Shri Ghanshyam Meena	Group 'D' WPC Cadre

The remaining cases were not found indigent as such their cases are hereby rejected."

The decision of the Circle Relaxation Committee was communicated to the applicant by the Sr. Superintendent of Post Offices, City Division, Jaipur vide its letter dated 4/5.3.2003.

7. Replying to the ground, it is denied that the decision of the respondents was arbitrary in any way. Lack of objectiveness in fair consideration is also strongly denied on the basis of facts stated above. It is also stated that as per the scheme, the Screening Committee while recommending the cases can under no circumstances exceeds the number of vacancies available because that would amount to violation of rules. It is urged that the Tribunal has to believe that the deliberations were fair and the cases recommended by the Screening Committee were even more indigent than the case of the applicant. The respondent department has also not faulted in informing the applicant about the correct position of his case.

8. The applicant has submitted rejoinder. The

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respondents have not submitted any reply to that.

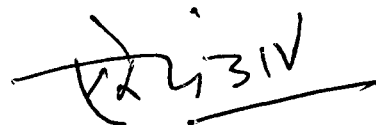
9. During arguments, learned counsel for the applicant stated that the retiral benefit amount of Rs.87,677/- got spent during widows (applicant's mother) sickness which actually resulted in her death, but this circumstance was not taken into consideration while examining the case of the applicant. Also that recurring expenses involved in paying rent of the house, education of the brother and sister and that all the children are unmarried were also not considered by the Screening Committee. In these circumstances, learned counsel for the applicant urged that a re-look of the case by the respondents may be ordered.

10. The learned counsel for the respondents repeated the position of the rules and explained the limitations under which the Screening Committee has to recommend cases restricting it strictly to the number of vacancies available. That the respondents under no circumstances under-estimate the difficulties of the family but under the rules there is no scope for re-consideration of cases once rejected by the Screening Committee.

11. I have carefully considered the pleadings and the arguments put forwarded by the learned counsel for the parties. It is correct that the rules do not permit reconsideration of a case once considered and rejected by the Screening Committee but plain reading of the impugned order dated 23.10.2001 reveals that Screening Committee's rejection of this case is based on objective comparison of common parametres, viz : number of dependent sons, daughters, married and unmarried and amounts of family pension terminal benefits received by the family. However,

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the Committee do not seem to have considered the facts that the widow of the deceased govt. servant also died after a prolonged illness, the destitute children are living in rented house and do not have any movable property and that minor brother and sister of the applicant are attending school, fees for which and other expanses have to be borne from within the meagre family pension of Rs.1450/- plus Dearness Relief, and they may have to leave the school due to lack of support. It is also undisputed that applicant is the only eligible dependent of the deceased govt. servant. In these circumstances, the OA is partly allowed with direction to the respondents to reconsider the case of compassionate appointment again, as a special case after obtaining relevant details afresh and put up the same for consideration against available vacancies in the next Circle Screening Committee meeting. No order as to costs.



(A. K . BHANDARI)

MEMBER (A)