

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

DATE OF ORDER: 20.7.2004

ORIGINAL APPLICATION NO. 535/2003

Ashok Kumar Meena son of Late Shri Shyam Meena aged about 21 years, resident of Village & Post Jephon Ki Dhani Kaladera District Jaipur. Aspirant of appointment on compassionate grounds on the post of Postal Assistant.

....Applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Sr. Superintendent of PostOffices, Jaipur City, Postal Division, Jaipur.

....Respondents

Mr. C.B. Sharma, Counsel for the applicant.

Mr. Tej Prakash Sharma, Counsel for the respondents.

CORAM:

Hon'ble Mr. S.K. Agrawal, Member(Administrative)

ORDER (ORAL)

This OA has been filed by the applicant with a prayer to direct the respondents to reconsider and to give appointment on any suitable post on compassionate grounds by quashing letter dated 10.2.2003 with all consequential benefits and to pass order which may be deemed fit under the facts & circumstances of this case.

2, The applicant's father was substantive employee of the Postal Department and was working on the post of Postman in Jaipur City Postal Division. The father of the applicant expired at the age of 35 years on 14.2.1996. The deceased employee left behind his wife, his widow mother, the applicant who was 14 years of age at that time and four daughters who were 12, 10, 8 and 5 years at that point of time. The applicant has stated that death of the father

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changed the status of the family from lower middle class to a family living below the poverty line. The widow of the deceased got terminal benefits to the tune to Rs.84,620/- including all benefits of DCRG, GPF amount, Insurance Fund etc. Out of this amount, Rs.55,000/- was paid towards HBA outstanding against the father of the applicant. The mother of the applicant thereupon requested the respondents to provide appointment to the applicant after attaining majority in the year 1996 and after long correspondence, respondent No. 3 obtained required documents with the statements obtained by the Postal Authorities and forwarded the same to respondent No. 2 for consideration. Besides, the applicant has also made a request vide his letter dated 6.11.2001 and 29.10.2001 that he may be provided appointment as early as possible after acquiring qualification of XII standard. The case of the applicant for compassionment appointment was however, considered by the Committee in the year 2002 but proposal was rejected vide letter dated 10.2.2003 taking into consideration of terminal benefits received by the widow and also stated that family is not in indigent condition and also on the ground of vacancy position.

3. The applicant has submitted in the application that ~~family is~~ in fact his family is in indigent condition as father of the applicant expired at the age of 35 years. Thereafter by the family pension and terminal benefits extended to the family, family anyhow managed studies and other matrimonial functions and from the year 2003 family pension has been reduced to 50% as per rules and the family is in constant hope that on majority, applicant will be provided appointment on compassionate ground. The applicant has further stated in the OA that the case of the applicant for compassionate appointment has been rejected by the respondents without taking into consideration liabilities of the family i.e. applicant and his unmarried sisters and no earning member is available in the family. There is no moveable or immoveable property and the family is having only small accommodation in which they are residing. Thus it is crystal clear that family is in indigent condition ~~ever~~ after the death of the father in the year 1996 and thus requires reconsideration of his case.

4. The applicant has drawn my attention to the revised instructions issued by the Government of India on the Scheme of Commpassionate appointment vide OM dated 9.10.1998 in which it has been mentioned ~~that~~ application for compassionate appointment should not be rejected merely on the ground that the family of the government servant had received the benefits under the various welfare schemes. Besides, the learned counsel for the applicant has cited decision of the Madhya Pradesh High Court in the case of T. Swamy Das vs. Union of India & Others ,Writ Petition No. 5760/2000 decided on 10.1.2002 reported in 2003(1)ATJ 367 in which it was held that the respondents ~~should have~~ delayed the consideration for seven years. The fault was on the part of respondents and not of the petitioner. The case of petitioner should have been considered on the basis of requirements under policy dated 13.6.1987 and not on the basis of policy of 9.10.1998 and the decision so arrived is liable to be set aside.

The petitioner is entitled to be considered and appointed on compassionate ground for reasons stated in the preceding part of the judgement, and the the respondents have to consider the case of the petitioner for appointment against Group 'D' post to which he was eligible on the basis of policy dated 13.6.1987.

5. The respondents in their reply have stated that the present case for compassionate appointment was considered by the CRC and was rejected. The Scheme is not intended to ensure that member of family is employed in each and every case. Such appointment can be provided only to fill up vacancies upto 5% that arises for direct recruitment within that year. The basic purpose of the Scheme is to provide immediate financial assistance is defeated if immediate appointment is not given as per Department of Personnel & Training Order dated 3.12.1999. The Circle Relaxation Committee has made a comparative & objective assessment of the financial condition of the family taking into account assessts and liabilities and considered all the other relevant factors of the Schemes such as members of the family, age of the children and the essential need of the family etc. and as well as availability of the vacancy. As regards the ~~loan~~, the respondents have stated these are personal matters. The respondents have further stated that it

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is true that family pension is reduced by 50% in the year 2003 after the death of the applicant's father as per CCS(Pension) Rules, 1972. After considering all the aspect of the matter the applicant's case for compassionate appointment was rejected.

6, I have gone through the facts of the file and the material placed before me alongwith the arguments putforth by the learned counsel for applicant as well as the respondents. The facts of the case, I see is that the case of the applicant has not been duly considered by the respondents taking into consideration that no earning member is available in the family, younger sisters of the applicant are unmarried and the family is having other liabilities. Besides it, pension of the widow has also been reduced to 50% under the rules. It has also been seen that father of the applicant had died in the year 1996 when he was only 14 years of age. The case of the applicant for compassionate appointment was however considered by the respondents only in the year 2002 namely, after six years after the death of father of the applicant. By that time, the applicant had become major. Presently, he is 21 years of age, as stated in the OA. In regard to the time limit during which the appointment on compassionate ground can be given, the applicant's counsel has cited the decision of the CAT, Jaipur Bench in the case of Suresh Kumar Meena vs. Union of India & Others in OA No. 505/2001 decided on 19.10.2002 in which it was held that :-

"13. As to the contention that the appointment on compassionate ground can be given within one year stated in the Memorandum dated 3rd December, 1999, it may be stated that the period fixed in this regard is of directory in nature. It cannot be interpreted in this manner that if the vacancy is not available within a year, the dependant of the deceased employee would be debarred from getting employment. If, the Scheme of providing appointment on compassionate ground is interpreted in this manner, it will defeat the object for which the Scheme was formulated. It is clearly stated in the scheme that the object of the scheme is, to grant appointment on compassionate ground to a dependant family member of a government servant dying in harness who left his family in penury and without any means of livelihood. It is clear that the object of saving the family of the government servant from financial destitution shall be defeated if it is held that appointment on compassionate ground can be given only within one year of the death of the deceased employee.

14...It is significant to point out that in the instant case, the deceased employee had died in 1997 and the applicant had made his application in 1998 which was decided by the respondents in September 2001. It is not understood how the condition of one year can be imposed in a matter in which the respondents have taken more than three years to decide the application of the applicant for compassionate appointment.

15. Having considered the entire material on record, we think that it is a fit case in which the respondents are directed to reconsider the case of the applicant for appointment on compassionate ground."

7. In view of the above arguments given by the respondents counsel that the basic purpose of the Scheme is to provide immediate financial assistance is defeated if immediate appointment is not given as per Department of Personnel & Training Order dated 3.12.1999 will have no meaning as the case of the applicant was considered by the respondents only after six years of the death of his father considering all the facts of the case. The respondents counsel further submits that there is no provision for approving the case for compassionate appointment in the absence of vacancies for the purpose. He further pointed out that now the provision of maintaining the waiting list has been discontinued as now committee will recommend only those cases which are really deserving and only if vacancy meant for the purpose will be available within a year.

8. After having heard all the discussions at length and considering the arguments put forth by the learned counsel, I am convinced that it a sure and genuine case where the applicant deserves for appointment on compassionate ground and the case requires re-consideration. Moreover, in this case, the entire need of employment is to maintain the family, marriage of the applicant himself and his four unmarried sisters.

The family is totally in indigent condition since the terminal benefits have already been spent on repayment of loans taken by the applicant during his life time and family pension has also been reduced by 50% after expiry of seven years under the rules.

8. Accordingly, the OA is allowed. The respondents are

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directed to re-consider the case of the applicant for compassionate appointment after taking into consideration that no earning member is available in the family, the applicant and his four younger sisters are still unmarried, besides it, the family is also having other liabilities, within three months from the date of receipt of a copy of this order. No order as to costs.

  
(S.K. AGRAWAL)  
MEMBER (A)

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