

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 9-11-04

OA 601/2003

1. Smt.Radha Devi w/o late Shri Ram Kumar r/o Village & Post Jajota via Rupangarh, District Ajmer, Rajasthan.
2. Manak Lal s/o late Shri Ram Kumar r/o Village and post Jajota via Rupangarh, District Ajmer.

... Applicants

Versus

1. Union of India through Secretary, Department of Post, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Near Govt. Press, Jaipur.
3. Sr.Suptd. of Post Offices, Ajmer Division, Ajmer.

... Respondents

CORAM:

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

For the Applicant

... Mr.S.Roy

For the Respondents

... Mr.N.C.Goyal

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PER HON'BLE MR.A.K.BHANDARI

This OA u/s 19 of the Administrative Tribunals Act, 1985 has been filed to seek following relief :

- "i) By an appropriate order or direction the order impugned dated 25.2.2003 (Ann.A/1) may kindly be quashed and set aside and the respondents may be directed to give appointment to the applicant No.2 on the suitable post as per his qualification under the compassionate rules from the date the application for compassionate appointment was submitted on 23.7.2001 with all consequential benefits.
- ii) Any prejudicial order to the interest of the applicant, if passed during the pendency of the application, the same may kindly be taken on record and after examining the same be quashed and set aside."

2. Brief facts of the case, as stated in the application, are that applicant No.1's husband and applicant No.2's father, Shri Ram Kumar, Peon, expired while in service on 16.3.2001 and

applicant No.2's name was sponsored by applicant No.1 for compassionate appointment under relevant rules. Applicant belongs to SC community and is 8th Class pass and had submitted application dated 23.7.2001 (Ann.A/2A) for compassionate appointment. That applicant No.1 was paid terminal benefits amounting to Rs.1,13,588/- but this amount is neither sufficient for survival nor for livelihood because both the sons of the deceased employee are unemployed. When no action was taken by respondents inspite of indigent circumstances of the family, applicant No.1 submitted more applications and reminders. While quoting relevant rules and circulars it is stated that 5% of the vacant posts falling under direct recruitment quota of Group-C and D category can be filled by compassionate appointees and the procedure for it is also clearly spelt out in the relevant circulars. It is also stated that these circulars clearly lay down that terminal benefits released to the widow are not at all related in any manner so far as providing of compassionate appointment to one of the dependant persons of the deceased employee's family is concerned and denial of such appointment by taking note of terminal benefits amounts to violation of Article-14 of the Constitution, as held by Hon'ble Supreme Court in the case reported in 2000 (6) SCC 493. Therefore, consideration of the terminal benefits by the Circle Relaxation Committee (CRC, for short) while rejecting the case of the applicant is illegal. The applicant had informed the department about other assets and liabilities of the deceased employee. That applicant possess four beeghas of land but this land is barren and there is no income from it as per report of Patwari (Ann.A/7). In these circumstances, rejection of applicant's case by order dt.25.2.01 (Ann.A/1) the respondents is illegal and unreasonable. Elder brother of the applicant though married is also dependent on the widowed

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mother as he is also unemployed and there has been no other source of income of the family except the terminal benefits.

3. In the grounds it is stated that rejection of applicant's claim is violative of rules and, therefore, violative of the provisions of Constitution of India. Consideration of terminal benefits while deciding the case has been held wrong by the Apex Court and consequent to this decision GOI have also issued instructions in this regard. That the indigent circumstances of the family wholly justify compassionate appointment and the rejection of his claim is arbitrary. This rejection is also against the aims and objects of the scheme of compassionate appointment.

4. The respondents have submitted a detailed reply. It is stated that the application of applicant No.1 was diligently forwarded to the competent authority but the CRC considered the case of the applicant in light of the existing rulings and instructions governing the subject of compassionate appointment i.e. Department of Personnel and Training Circulars dated 9.10.98, 3.12.99, 24.11.2000, 16.5.2001 and 4.7.2002. Copies of these circulars have been annexed as Ann.R/1 to R/5 respectively. It is further explained that the scheme of compassionate appointments is intended to provide immediate assistance to the family of the deceased government servant because after death of the bread winner they are left in financial crisis. Further, the scheme is not intended to ensure that in each and every case a member of the family will get appointment on compassionate grounds. While considering the request the Committee is required to take into account availability of vacancy and the recommendation for such appointment can be made only in the most deserving cases

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limiting them within 5% of vacancies falling under direct recruitment quota within the year. The rules specify that such cases will not be referred to other departments. Therefore, recommendations have to be limited to the number of vacancies available ^{in the same department} for such appointments. That the case of the applicant was considered by the CRC on 21.1.2003 alongwith 28 other cases against one vacancy available for the purpose. The CRC recommended one case which was found most indigent and remaining cases, including that of the applicant, were rejected due to non-availability of vacancies for the purpose. Copy of minutes of such deliberations by the CRC dated 23.1.2003 are annexed as Ann.R/7. This was without delay conveyed to the applicant through Sr.Suptd. of Post Offices Ajmer on 25.2.2003 vide Ann.R/8.

5. In parawise reply it is stated that four daughters of the deceased employee, as per her own application, are married and younger son, applicant No.2, having attained the age of 25 years does not come in the category of dependent of deceased government servant. Since the applicant is also married and having his own family hence he also cannot be considered dependent on the widow. Inspite of these circumstances, the case of the applicant was considered by the CRC on 21.1.2003 and they observed that the family of the deceased employee is not having the liability of marriage of the daughters and education of minor children. In addition to this, the family is having their own house and four beeghas of agriculture land in the share of applicant No.2 as evident from Ann.A/7 submitted by the applicant himself. In view of this, the Committee while making recommendation of ^{the} most indigent person rejected the claim of the applicant of this OA. It is denied by the respondents that the rejection was solely on the grounds


of terminal benefits received by the applicant. On the contrary, it was because of paucity of vacancies and other source of income of the applicant. The grounds taken by the applicant are also denied stating that there has been strictest possible abidance of rules due to which abrogation of rules or Articles of the Constitution of India cannot be contended. It is also stated that the Apex Court in the case of Umesh-Kumar Nagpal-v.-State-of-Haryana &-Ors., 1994 SCC (L&S) 930, has held that mere death of an employee in harness does not entitle his family to such source of livelihood to get appointment on compassionate grounds. Similarly, the Apex Court in the case of Hindustan-Aeronautics-Limited-v.-Smt.R.Radhika-Thirumali, JT 1996 (9) SC 197, has held that the appointment on compassionate grounds can be made if a vacancy is available for the purpose. In light of these decisions it is stated by the respondents that at the time of consideration of the case only one vacancy in Group-D category was available and against that vacancy 28 cases, including the case of the applicant, were considered and the most indigent was approved for compassionate appointment. Therefore, there is no illegality in respondents' action. It also weighed heavy with the CRC that all the children of the deceased employee were married and there was no liability of marriage or education of minor children on the widow. Also that, Both the sons have attained the age of 25 years and cannot be considered dependent on the widow.

6. Applicant has submitted rejoinder denying facts of ownership of four beeghas of productive land on the basis of Patwari's report, which has been wrongly considered as source of income by the respondents. He has also contended that applicant No.2, second son of the widow, was 23 years of age at the time of death of his father and not 25 years of age, as

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contended by the respondents, and both the brothers are unemployed. Therefore, applicant No.2 qualifies for compassionate appointment. In the rejoinder it is also requested that in view of indigency direction may be issued to respondents to consider the case again in the next meeting of CRC. Govt. of India's, Department of Personnel and Training, OM No.14014/19/2002 Estt.(D) dated 5.5.2003 is also appended to show that the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year.

7. Parties were heard at length. Counsel for applicant repeated the pleadings on record and re-emphasised the fact that his indigent financial condition has been wrongly underestimated on the basis of false facts. Also that, applicant was not 25 years of age on the date of rejection of his request by the CRC. On the basis of these facts, the Tribunal should quash the impugned order and direct the respondents to reconsider the case in the next CRC's meeting. Per contra, counsel for respondents drew attention to facts enumerated in applicant No.1's application dated 23.7.2001 (Ann.A/2A), in which the age and marital status etc. of the ~~widow~~ and children are mentioned under applicant's own signature, according to which the age of the applicant is 25 years now and on the date of appointment, if given now would be beyond 25 years, his date of birth being 1.12.78. About ownership of house and four beeghas of agriculture land also it was stated that these facts have been supplied by the widow as part of her application. In these circumstances, there is no case for reconsideration.



8. After careful consideration of all facts and pleadings, I find no irregularity in application of relevant rules and procedure prescribed by Government of India while considering the case of the applicant for compassionate appointment. While examining the facts also, the respondents seem to have acted correctly inasmuch as against one available vacancy in Group-D category 28 candidates, including applicant No. 2, were considered and recommendation was made in favour of the most indigent person. The fact of age of applicant No. 2 being more than 25 is also proved. It is true that married sons cannot be considered dependent on widow mother in application of rules regarding compassionate appointment. The pleading of the respondents that applicant No. 2 is more than 25 years of age and does not qualify for compassionate appointment is also to be seen by me in the light of decision of coordinate Bench at Jodhpur in OA No. 109/2003, Omprakash vs. Union of India & Others decided on 18.7.2003. Since CRC has not rejected the case solely on the basis of terminal benefits given to the widow but they have rightly taken into consideration only one vacancy available and most indigent case was considered by them, the decision cannot be faulted.

9. In view of what has been stated in the foregoing, the OA is dismissed with no order as to costs.



(A.K. BHANDARI)

MEMBER (A)

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