

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH.

O.A.NO.618 of 2003

April 5, 2005.

CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN.

Pawan Kumar son of Late Shri Laxman Prasad aged about 25 years, resident of Haweli Rekha Nanga Sarrafa Bazar, Laxman Mandir, Bharatpur, Aspirant for appointment on compassionate grounds.

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Applicant

By : Mr.C.B.Sharma, Advocate.

Versus

- 1. Union of India through its Secretary to the Govt. of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi-110001.
- 2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
- 3. Superintendent of Post Offices, Bharatpur, Postal Division, Bharatpur.

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Respondents

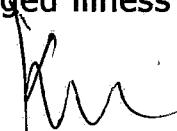
By : Mr.B.N.Sandu, Advocate.

ORDER (ORAL)

KULDIP SINGH,VC

The applicant has filed this Original Application seeking appointment on compassionate grounds and has also challenged the order dated 5.11.2003 (Annexure A-1), as conveyed vide letter dated 7.11.2003 (Annexure A-2) by which his case for grant of compassionate appointment has been turned down by the respondents.

The facts in brief as alleged by the applicant are that his father namely Late Shri Laxman Prasad who was working as Postman, Bharatpur Head Post Office, Bharatpur, expired on 25.12.2002, leaving behind, Smt.Kamlesh-widow, Pawan Kumar, Son (applicant) and Pankar Kumar (Son). The deceased expired after prolonged illness



which changed status of the family from lower middle class to a family living below poverty line. The family received terminal benefits to the tune of Rs.3,11,166/-, including General Provident fund and Insurance etc. The family is in receipt of pension of Rs.2,200/- plus other allowances, which is to be reduced by 50% after 5 years. The amount received by family from the respondents has been consumed in repayment of loans taken during life time of the deceased and on matrimonial function, as marriage of younger sister of applicant took place in the year 2001. Nothing is available with the family in the shape of immovable and movable property except one room share accommodation in which family is living at present and the income of the father of the applicant was not so more being low paid employee, so he could not built up his own house.

Since the applicant was in indigent condition, the applicant applied for appointment on compassionate grounds. His case was processed and ultimately it was rejected vide order dated 5.11.2003 (Annexure A-1) by taking into account the family pension and terminal benefits etc. Rejection of his case is ~~illegal~~ as the family is in indigent condition as no earning member is available in the family and they require the appointment of the applicant on compassionate grounds. The respondents are having plenty of posts with them but the applicant has not been given appointment. The case of the applicant cannot be rejected on the ground that the family has received the benefits under various welfare schemes.

The respondents who are contesting the Original Application have filed a detailed reply. They submit that the case of the applicant was considered by the Circle Relaxation Committee on 20.10.2003 as per instructions dated 9.10.1998 of DOPT followed by various clarifications, issued from time to time. The Circle Relaxation Committee after objective and comparative assessment of the case did

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not find the family in indigent condition as there is liability of daughter's marriage and education of minor. Minutes of CRC dated 20.10.2003 are enclosed as Annexure 8. The applicant and his younger brothers have attained the age of 24 years and 23 years respectively on the date of death of the deceased employee. Thus, the major sons can not be dependent upon the employee. The family has their own house. They have received terminal benefits in the sum of Rs.3,11,166/- and the family is also getting family pension, which is more than the allowance paid to a Extra Departmental Gramin Dak Sewak who maintain their family properly with that allowance.

The applicant filed an additional affidavit to indicate that respondents have offered appointment to dependent of Shri Jagdish Athwal, who was recommended appointment as Postman on the ground that his family is in more indigent condition, whereas the position is otherwise.

Learned counsel for the respondents filed an additional affidavit today in Court giving the comparative assessment of applicant as well as that of the successful applicant.

I have heard the learned counsel for the applicant and learned counsel for the respondents and perused the material on the file.

It is undisputed that the Circle Relaxation Committee has considered the case of the applicant and also carried out comparative examination of the cases and it has come out that the father of the applicant left widow and two unmarried sons aged 24 years, 9 months and 23 years, 5 months as dependent at the time of his death, whereas the father of the approved candidate left widow, three unmarried sons and one unmarried daughter aged 22 years, 2 months, 17 years, one month, 15 years, 20 years respectively. The father of the applicant left liabilities of marriage of two sons whereas the father of approved candidate left liabilities of marriage of three sons and one daughter.

Moreover, the father of the applicant left no liabilities of education of minor children whereas the father of approved candidate had left liabilities of education of two minor children. Finding that the liabilities and responsibilities left by the father of approved candidate were more than that of father of the applicant, the respondents rightly offered appointment to the approved candidates.

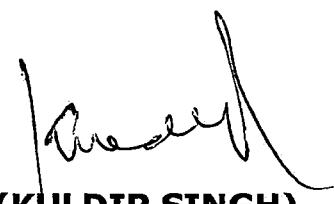
Learned counsel for the applicant submitted that the retiral benefits given to the family of the deceased cannot be made a ground to reject his case for appointment on compassionate grounds. He relies upon the instructions of DOPT, part of which is reproduced in the O.A. One cannot dispute the proposition of law that request of an incumbent for appointment on compassionate grounds cannot be rejected only on the ground of receipt of the pensionary benefits. However, the law as stands today is that pensionary benefits can be taken into consideration for assessing as to whether a family is in indigent condition or not but the request of a person cannot be rejected for appointment on compassionate grounds merely because the family has received retiral/terminal benefits. In this case, the ground of rejection is not merely receipt of terminal benefits but this has been considered only as an element to reach to a conclusion as to whether the family of the applicant is in an indigent condition or not more particularly in comparison to the case of approved candidate. Thus, I do not find any merit in the argument of learned counsel for the applicant.

The instructions specifically provide that the compassionate appointment can be made only in a really deserving cases and only if vacancy meant for such appointment on compassionate ground is available within a year with the further condition of ceiling of 5% only against direct recruitment quota. The specialized committee has considered the case of the applicant along with others and has

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recorded that the family of the applicant does not require appointment on compassionate appointment as more deserving candidate was available. In view of this specific finding of the respondents, the request of the applicant has rightly been rejected. The appointment on compassionate grounds cannot be claimed as a hereditary right. The very purpose of appointment on compassionate appointment is to meet the emergency in which the family of a deceased employee may have plunged into on account of sudden death of the breadwinner of the family. In any case the applicant is trying to challenge appointment offered to the approved candidate who is not a party in this O.A. In such circumstances, the O.A. Is even otherwise not maintainable.

In view of the above discussions, this O.A turns out to be devoid of any merits and is dismissed leaving the parties to bear their own costs.



(KULDIP SINGH)
VICE CHAIRMAN

April 5, 2005.

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