

Central Administrative Tribunal
Jabalpur Bench

OA No.44/06

Jabalpur, this the 13th day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.M.K.Gupta, Judicial Member

Amit Kumar
S/o late Narayan Singh Thakur
R/o Village and Post Shobhapur
Piparia
Dist.Hoshangabad (M.P.)

Applicant

(By advocate Shri R.S.Verma)

Versus

1. Union of India
Through Secretary
Department of Posts
New Delhi.
2. The Chief Post Master General
Department of Posts.
Bhopal.
3. Assistant Post Master General (Staff)
M.P.Zone, Bhopal.
4. Senior Superintendent of Post Offices
Hoshangabad (M.P.)

Respondents.

(By advocate Shri S.K.Mishra)

ORDER

By M.K.Gupta, Judicial Member

Validity of communication dated 9th September 2004 rejecting applicant's request for grant of compassionate appointment is under challenge in the present OA.

2. Admitted facts of the case are that late Shri Narayan Singh Thakur, Assistant Post Master, Piparia Sub Post Office, Dist. Hoshangabad, died in harness on 14.3.2001, leaving behind three



sons, one daughter and the widow. An application dated 18.10.01 was preferred by the widow of deceased employee for grant of compassionate appointment in favour of applicant. Vide communication dated 4.4.02, applicant was directed to supply requisite documents, which direction was complied. He submitted details of family income and other assessment as certified by the Tahsildar, stating that the family had no immovable property. It has only a mud house in the village. The said request was rejected vide impugned communication.


3. Shri R.S.Verma, the learned counsel appearing for the applicant strenuously urged that impugned communication was liable to be set aside. Reliance was placed on 2003 (4) M.P.H.T. 167 - Akeel Ahmed Khan vs. General Manager, State Bank of India and others, to contend that if such appointment is refused merely on the ground that the amount towards gratuity and provident fund was paid to the deceased's family, it will frustrate the entire purpose of compassionate appointment. Reliance was also placed on Patna High Court judgement reported in 2004 (2) A.T.J. 243 - Rajesh Kumar Pandey vs. Union of India and others, holding that denial of compassionate appointment on the ground of non-availability of vacancies was not justified. Such appointment cannot be confined to the particular department only but has to be made in respect of other departments also. Lastly, reliance was placed on (2005) 10 SCC 289 - Govind Prakash Verma vs. Life Insurance Corporation of India and others, to contend that compassionate appointment cannot be refused on the ground that any member of family had received such benefits which may be admissible to the legal representative of the deceased employee. It was wholly irrelevant to take into consideration the amount which was being paid as family pension to widow of the deceased and other amounts paid on account of terminal benefits under the Rules.

4. Respondents resisted the applicant's claim stating that in terms of Department of Personnel & Training OM dated 9.10.98 and subsequent OM's issued from time to time, the Circle Relaxation

Committee (CRC for short) had been constituted to consider cases of compassionate appointment keeping in view (i) income of the family of the deceased employee (ii) educational qualification of the member of the family (iii) number of dependents (iv) assets and liabilities left by the deceased government servant etc. as per guidelines issued by the Department of personnel & Training. Thus the CRC adopted some parameters on these guidelines to determine the indigence of the family. The meeting of the CRC was held on 4.8.2004 and against three vacancies, namely two in Group-C and one in Group-D, appointment was given to three deserving candidates. There were a number of cases of greater indigence than that of the applicant. The CRC took into consideration the liabilities of unmarried daughters and minor sons and after analyzing all these and other relevant aspects, concluded that the applicant's family was not living in indigent condition. The very purpose of giving compassionate appointment to a member of the family of the deceased employee is to provide immediate relief to the family and not to provide employment to every one. Moreover, the vacancies meant for such purpose are confined to 5% of the quota. All aspects were taken into consideration before rejecting the applicant's request.

5. Shri S.K.Mishra, the learned counsel appearing for the respondents contended that the minutes of CRC (Annexure R-5) would show that the applicant's case had been duly considered and rejected finding no indigent condition. Three posts in total were earmarked for consideration i.e. one each for PA and Postman and one for Group -D cadre. The applicant's case had been considered against a lone Group-D vacancy. Since the number of vacancy was only one in Group-D, and as there were as many as 44 claimants and finding that the applicant's case was less indigent, the Committee rightly concluded that such benefits cannot be accorded to him. The learned counsel for the respondents explained that it is not the mere amount of terminal benefits which had been the basis for rejecting his claim.

6. By filing a short rejoinder, the applicant contested the plea raised by the respondents and stated that applicant's family is living in



a rented premises by paying Rs.1200/- per month which was liable to be deducted from the monthly income of the family, as arrived at by the respondents, If such a calculation is made, the net income of the family would fall drastically from Rs 4132/- to Rs.2912/- and consequently he would be entitled to compassionate appointment.

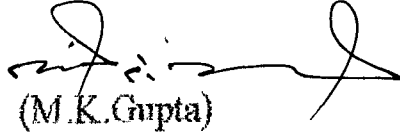
7. We have heard the learned counsel for the parties and perused the pleadings and other material placed on record.

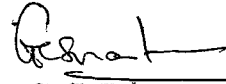
8. It is well settled that compassionate appointment is neither a mode nor a source of appointment and one cannot claim it as a matter of right. The object of the scheme is to grant appointment on compassionate grounds to a dependent family member of the Government servant dying in harness, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the government servant concerned from the financial destitution and help it get over the emergency. Furthermore, the law is also settled that while considering requests for such appointment, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities and other relevant factors such as number of earning members, size of the family, age of the children and essential needs of the family etc. If we examine the facts of the present case, we can observe that there was only one vacancy in Group-D for which the applicant's case had to be considered and there were a large number of claimants. In such a situation, there remains the need to consider such cases by an independent body which, in the present case, had been the Circle Relaxation Committee. On a perusal of the minutes of the said Committee held in March 2004 (R-5), we are satisfied that the applicant's case had been considered objectively and dispassionately and taking into account all factors as enumerated under the relevant DoPT OM dated 9 10 98, the applicant claim for such compassionate appointment had been rightly rejected. Learned counsel for the applicant contended that the applicant belonging to the SC community deserves compassion. In our considered view, merely on the basis of caste or creed or class, one cannot be allowed to claim a favourable



treatment, particularly when there are set guidelines on the subject, which remain unchallenged. The judgements cited, in our considered view, are distinguishable and the same were rendered in its own peculiar facts and circumstances

9. Finding no merits in the claim, the OA is dismissed. No costs.


(M.K. Gupta)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

पसिलिगि अके धित:-

- (1) सचिव, उच्च न्यायालय तार एसे.सिगेशन, जबलपुर
- (2) आवेदन श्री/.....के पठाउंसल
- (3) प्रत्यक्ष श्री/.....के पठाउंसल
- (4) न्यायालय, कोषा, जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्रवाई हेतु

उप रजिस्ट्रार

Resub
on 15/12/04
Rz

2-15-12-04

R.S. Verma Akr 235
J.K. Mishra Akr 235