

(2)

Central Administrative Tribunal
Jabalpur Bench

OA No.349/06

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

Manoj Kumar Dixit
S/o late Shri Manohar Kr.Dixit
R/o Behra Seth Ka Chaal
Malviyaganj, Itarsi
District Hoshangabad (MP).

Applicant

(By advocate Shri S.Ganguli)

Versus

1. Union of India
Through Secretary
Department of Posts
Ministry of Communications and
Information Technology
Sansad Marg
New Delhi.
2. The Director General of Posts
Govt. of India
Sansad Marg, New Delhi.
3. The Circle Relaxation Committee
Madhya Pradesh Circle
Through its Chairman
Dak Bhawan, Bhopal.
4. The Chief Post Master General
Madhya Pradesh Circle
Dak Bhavan
Bhopal.

Respondents.

(By advocate Shri A.P.Khare)

✍

②

2
ORDER

By M.K.Gupta, Judicial Member

Validity of communication dated 6th/10th 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 Manohar Kumar Dixit, Head Postman at Post Office, Itarsi, District Hoshangabad, died in harness on 2.7.2002, leaving behind one son, one married daughter and the widow. An application dated 21.7.2002 was preferred for grant of compassionate appointment. Vide communication dated 24.7.02, applicant was directed to supply requisite documents, which direction was complied. He submitted details of family income, No Objection Certificate and other assessment etc., stating that the family had no immovable property. The said request was rejected vide impugned communication stating that Circle Relaxation Committee considered his claim and finding that family received Rs.3,08,035/- besides pension of Rs.3420/- p.m., is not found to be in indigent condition. Further more, keeping in view the very few vacancies available in 5% quota, it was not possible to accede to his request.

3. Shri S.Ganguli, 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) ATJ 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. Lastly, reliance was also placed on an order dated 31.8.04 of this Bench in OA No 84/2004, Mevalal vs. Union of India and others, whereby it was observed that following OM issued on said subject, such claim was to be considered by three consecutive Board. MA No.401/2006 was also filed seeking condonation of delay in approaching this Tribunal belatedly, stating that he was not aware of legal provisions. The delay is bonafide and not intentional.

4. Respondents resisted the applicant's claim stating that in terms of Department of Personnel & Training OM dated 9.10.98 and subsequent OMs 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^{condition} of the family. The meeting of the CRC was held 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 A.P.Khare, learned counsel appearing for 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. No reply has been filed to MA No.401/2006.

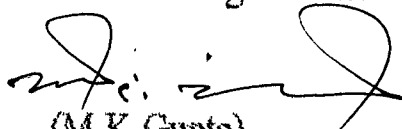
6. We have heard the learned counsel for the parties and perused the pleadings and other material placed on record.

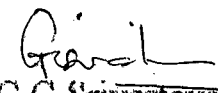
7. We have perused MA No.401/2006 and finding sufficient cause, MA is allowed and delay is condoned.

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 (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. We may also note that the minutes of CRC (R-5) were also considered by this Tribunal in OA No.44/06 (Amit Kumar vs. Union of India) which OA has been dismissed vide separate order, today. The judgements cited, in our considered view, are distinguishable and were rendered in its own peculiar facts and circumstances. There is no parity of the issues raised in the said judgements vis-à-vis one raised in present OA.

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


(M.K. Gupta)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

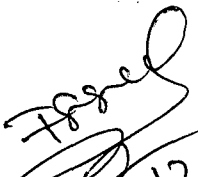
aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्जित:-

- (1) सचिव, उच्च न्यायालय काट एक्सेक्यूशन, जबलपुर
- (2) आदेशक श्री/श्रीमती/शु.....के कारुंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के कारुंसल
- (4) कंसाल, कोषा, जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्रवाई हेतु

मय रजिस्ट्रार

J. Ganguly AR 22/12/06
A.P. Khare AR 22/12/06


22-12-06