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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH
JABALPUR

Original Application No. 414 of 2006

Jabalpur, this the 15th day of December, 2006

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

Mohd. Javed Khan,
S/o. Late Shri Shekh Mohd.
Akram, aged about 25 years,
R/o. House No. 2032,
Uprenanj (Moulana Ki Gali),
Jabalpur District, Jabalpur (MP). **Applicant**

(By Advocate – Shri K.C. Ghildiyal)

V E R S U S

1. Union of India,
Through the Secretary,
Ministry of Telecom and
Communication, Government of
India, New Delhi.
2. Chief Post Master General,
Chhattisgarh Zone, Raipur (CG).
3. Senior Superintendent of Post
Office, Jabalpur Division,
Jabalpur. **Respondents**

(By Advocate – Shri A.P. Khare)

ORDER

By M.K. Gupta, Judicial Member –

In this second round of litigation the applicant challenges the validity of communication dated 31st October, 2005 rejecting his request for appointment on compassionate ground.

2. The admitted facts of the case are that Shri Shekh Mohd. Akram died in harness on 22.11.2000. He left behind his widow, one
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son and one daughter. A sum of Rs. 6,08,012/- was paid as terminal benefits besides pension of Rs. 4,541/- per month to the family of the deceased. Vide communication dated 10th September, 2004, the application for compassionate appointment of the applicant was rejected. The said communication was challenged before this Tribunal vide OA No. 150 of 2005. The said OA was allowed vide order dated 18th August, 2005 and the respondents were directed to reconsider the applicant's claim for compassionate appointment in accordance with rules and law within the time limit prescribed on the ground that the respondents have not discussed about the others grounds raised by the applicant in his application about the marriage of his sister and the fact that a huge amount is spent towards the maintenance of the said house of the applicant every year.

3. Pursuant to the aforesaid direction the respondents reconsidered the applicant's claim but once again rejected it vide communication dated 31st October, 2005 holding that there was no change in the circumstances and there being no vacancy in Group C or D as well as the family is not in indigent condition.

4. Shri K.C. Ghildiyal appearing for the applicant strenuously urged that there was no basis for calculating the income of the family at Rs. 9,000. Reliance was placed on the decision of the Hon'ble Supreme Court in the case of Govind Prakash Verma Vs. Life Insurance Corporation of India & Ors., 2005 SCC (L&S) 590 and Balbir Kaur & Anr. Vs. Steel Authority of India Ltd. & Ors., (2000) 6 SCC 493. The learned counsel further strenuously urged that the respondents have rejected the applicant's claim on the precise ground which had already been considered by this Tribunal and rejected on an earlier occasion.

5. The respondents contested the claim laid in the OA stating that the cases of compassionate appointment are examined by the circle relaxation committee keeping in view the guidelines issued in the

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matter as per DOP&T OM dated 9.10.1998 as amended from time to time. The circle relaxation committee considers the 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. The circle relaxation committee also keeps in view the vacancies meant for compassionate appointment which are restricted to 5% of outsider quota as per Annexure R-2. The applicant case has been reconsidered in terms of direction issued by this Tribunal on 18th August, 2005 and on reconsideration, the respondents find no change in circumstances as the applicant's family was not in indigent condition particularly when there only three major persons living in the family.

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

7. 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. On perusal of the detailed and speaking order dated 31.10.2005 indicates that the respondents have reexamined all aspects of the case and finding that it was not a case of indigent condition, rejected the applicant's claim. So

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far as the judgments, on which reliance have been placed by the applicant, are concerned, we may note that it is not the ratio of the said judgments that the compassionate appointment is either source or mode of appointment. Moreover, the said judgments were rendered in their own peculiar facts and circumstances of the case and do not lay down a law of general application. Each case has to be examined with regard to the given circumstances. The claim of the applicant had been considered compassionately and the respondents recorded a specific finding that the family condition is not indigent and the request had been rejected. The first and foremost condition for grant of compassionate appointment is that the family must be living in indigent condition and require "immediate" assistance. Such aspects are totally absent in the facts and circumstances of the present case, particularly when the deceased employee died on 22nd November, 2000 i.e. almost 6 years have elapsed. We may clarify that the actual pension drawn had been Rs.4541/- per month and Rs.9271/- per month is a deemed income after making necessary calculation. Nothing turns on this aspect. Finding no justification to interfere with the action of the respondents, we dismiss the Original Application. No costs.


(M.K.Gupta)
Judicial Member


(Dr.G.C.Srivastava)
Vice Chairman

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

उत्तिलिपि काको शिवा:-

- (1) शक्ति, उच्च न्यायालय कार एच.एस.एम., जबलपुर
- (2) आदेशक श्री/श्रीमती/शु.के काउंसल
- (3) प्रत्यर्था श्री/श्रीमती/शु.के काउंसल
- (4) कोषपाल, कोषाल, जबलपुर व दफ्तरिय सूचना एवं आवश्यक कार्रवाई हेतु

K.C. Chidyal
Dr. Khare

उप रजिस्ट्रार

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