

**CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT COURT SITTING AT INDORE**

Original Application No. 101 of 2004

Date of order : 17-5-2005

C O R A M

**Hon'ble Shri M.P. Singh, Vice-Chairman
Hon'ble Ms. Sadhna Srivastava, Member [J]**

Madanlal Sendhare, Son of Late Shri Nandkishore Sendhare, aged : 23 years,
Occupation: Unemployed, resident of Vivekanand Nagar, Burusha, District –
Khargone (MP) **...Applicant**
(By Advocate – Shri Rakesh Yadav on behalf of Shri B.A. Nigam)

Vs.

1. Union of India through Secretary, Department of Posts, Sanchar Bhavan, New Delhi.
2. Director General of Posts, New Delhi.
3. Chief Postmaster General, Madhya Pradesh Circle, Bhopal. **...Respondents**
(By Advocate – Shri Umesh Gajankush)

O R D E R

By Ms. Sadhna Srivastava, M (J):-

Heard Shri Rakesh Yadav holding brief on behalf of Shri B.A. Nigam, learned counsel for the applicant and Shri Umesh Gajankush for respondents.

2. The facts of the case lie in a short compass. Admittedly, the applicant's father died in harness on 29.11.1998, leaving behind his widow, two sons and two daughters. The applicant applied for compassionate appointment on the death of his father. His case for appointment was considered by the Circle Relaxation Committee and rejected vide order dated 16.11.1999. Aggrieved by the order dated 16.11.1999, the applicant filed an OA No. 178 of 2002 before this Bench, which was rejected at admission stage itself on 16.4.2004. A writ petition No. 1180 of 2002 was filed in the High Court, challenging the order dated 16.4.1999 passed by this Tribunal in OA No. 178 of 2002, the same was allowed and matter was remanded to the Circle Relaxation

Committee (CRC in short) for reconsideration of the application of the applicant (Annexure A/2) . The CRC has reconsidered the matter and passed an order dated 16/20.1.2003, recording finding that (a) the family of the deceased is not found in indigent condition; (b) There was only one post which was filled up by a most deserving candidate on compassionate ground.

3. The grievance of the applicant is that the respondents have rejected his claim without applying their mind to the fact that the family of the deceased employee did not have any other source of income , and they were wholly dependent on the deceased employee. None of the sons was employed and the elder son of the deceased employee is not keeping good health and not in position to work. The widow was getting family pension of Rs. 3220/-, who expired on 28.11.2003, and thus, the family pension has been stopped. The learned counsel for the applicant submitted that the order dated 16/20.1.2004 is not in consonance with the direction given by the High Court, the order is arbitrary and unjustified. It is also argued that the terminal benefits cannot be a ground for rejecting the compassionate appointment. Thus, he prayed that the applicant may be given the compassionate appointment.

4. In response , the learned counsel for the respondents have submitted that the applicant's case was reconsidered by the CRC who after assessing the financial condition of the family, , source of income, terminal benefits and liabilities left by the deceased have rejected the claims of the applicant. The family of the deceased received Rs. 2,51,232/- as terminal benefits , and it also owns a residential house , and on the death of mother, the disabled brother of the applicant could have applied for family pension.

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Moreover, there is no minor dependent in the family. Therefore, the applicant is not entitled for any compassionate appointment.

5. It is to be seen that appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of the employee concerned, his family should not be deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis. In the matter of compassionate appointment, the financial condition and hardship is to be seen. The respondents have rejected the claims of the applicant not merely on the ground that the family has got sufficient terminal benefits but have taken into consideration the financial condition of the family, the assets and liabilities and whether the family can survive in the present circumstances or not in the absence of bread earner. After carefully analysing the situation, they have found that the financial condition of the family is not such where compassionate appointment should be granted. Further, compassionate appointment can be granted in indigent circumstances and is restricted to 5 % only and has to be granted only under exceptional circumstances where on sudden death of the bread earner, the financial condition of the family becomes indigent. It has repeatedly been held by the Hon'ble Supreme Court that the compassionate appointment cannot be given as a separate mode of appointment for the survival of the bereaved family. The law is also well settled that the courts or Tribunals cannot give directions to grant compassionate appointment. At best, the courts can direct the respondents to consider the case as there may be many more deserving cases

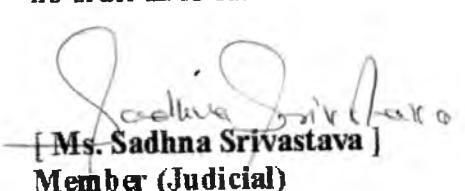
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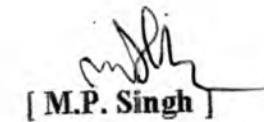
which should be known only to the Department and not to the court. Therefore, no such direction can be given straightway to give compassionate appointment to the applicant. Even otherwise, on the direction of the Hon'ble High Court, the authorities have already reconsidered the matter and have taken a decision because the first daughter has already been married during the life time of the deceased employee, and the second daughter has also been married thereafter. The family owns a house and they are getting sufficient money by means of terminal benefits and receiving the family pension also up to the time of widow's death. Therefore, it is not a case where the deceased had died at young age leaving the widow and small children in destitute condition or indigent condition. The learned counsel for the respondents has made submission that the committee has rejected the claim of the applicant after taking into consideration all the aspects and found that the family is not in indigent condition in comparison to other different cases as the family received good terminal benefits and the deceased left behind him major sons and all the daughters were married. Hence, the claim of the applicant was rightly rejected vide order dated 16/20.1.2003. We may here observe that in case the elder son of the deceased employee is disabled, he may file an application for payment of family pension and the respondents are liable to consider such application in accordance with rules. But in the instant case, by no stretch of imagination, the reasoning can be said to be unjustified or arbitrary as the same is based on the judgments and principles laid down by the Hon'ble Supreme Court. The applicant cannot claim compassionate appointment as a matter of right or as line of succession simply because his father had died in harness in 1998. Since

the respondents are bound by 5 % ceiling and they found that there were more deserving cases than that of the applicant for grant of compassionate appointment , we do not see any illegality in the order dated 16/20.1.2003 passed by the respondents.

6. Before we part, we may refer to the order dated 9th March, 2005 passed in this case , whereby the respondents were directed to produce the comparative chart. It has not been produced. However, we are of the opinion that we need not wait any further. The reason is that we have already concluded above that based on the guidelines issued by the executive and judicial pronouncements, the applicant is not entitled for compassionate appointment. Therefore, the jurisdiction of the Tribunal comes to an end. The Tribunal cannot substitute itself for the competent authority empowered to make the selection. The applicant has also not pleaded any specific material to prove any arbitrariness on the part of the competent authority. The applicant has also not impleaded the person against whom it is desired that the Tribunal should enter into the enquiry. Therefore, we do not consider it proper to enter into enquiry any further.

7. In view of the above, the Original Application is dismissed with no order as to costs.


[Ms. Sadhna Srivastava]
Member (Judicial)


[M.P. Singh]
Vice-Chairman