

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 853/04

Jabalpur, this the 11th day of April, 2005

C O R A M

Hon'ble Mr. Madan Mohan, Judicial Member

Yogesh Sarankar
S/o Late Shri Ramdas Arankar
R/o Noniya Karbal, Sanchar Colony
Chhindwara (M.P.)

Applicant

(By advocate Shri P.S.Das)

Versus

1. Union of India through
Secretary, Department of
Posts and Telegraph
Government of India
New Delhi.
2. Chief Postmaster General
Madhya Pradesh Parimandal (Circle)
Bhopal.
3. Post Master General
Raipur Range
Raipur.

Respondents.

(By advocate Shri M.Chaurasia)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks to quash the impugned orders Annexure A5 and Annexure A7 and to direct the respondents to appoint the applicant on the post of Postman on compassionate grounds.



2. The brief facts of the case are that the father of the applicant who was serving as Postal Assistant died in harness on 18.7.96, leaving behind his widow, two sons and a daughter. At the time of his death, the applicant who belongs to Scheduled Caste, did not attain the age of 18 years. Hence the Department assured the mother of the applicant that one of the sons of the deceased would be given compassionate appointment on attaining majority. The mother of the applicant filed an affidavit dated 23.1.2001 (Annexure A3) in the department and prayed for compassionate appointment to her elder son Yogesh Sarankar, the applicant herein. The applicant passed Higher Secondary School Examination. The request for compassionate appointment was rejected by the Chief Post Master General, M.P.Circle, Bhopal vide order dated 2.8.99 (Annexure A5) stating that some amount was given to the family of the deceased and the widow is also being given family pension of Rs.3630/- Thereafter, the applicant submitted a detailed representation (Annexure A6) in reply to which the applicant was informed vide order dated 5/6.1.2000 that the decision of the selection committee dated 28.7.99 is not liable to be modified or changed (Annexure A7). It is alleged in the OA that there had been mistake in calculation of the amount payable to late Ramdas and the amount of Rs.71,342/- given to the family was spent for repaying the house loan. However, the respondents have not considered the case of the applicant. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that at the time of death of the applicant's father, he had 14 years of service left. The deceased has left behind his widow, 2 sons and a daughter. On attaining majority, an application was moved on behalf of the applicant for compassionate appointment but the respondents did not consider it properly and it was rejected vide order dated 2.8.99 (Annexure A5) simply mentioning that retiral dues of the deceased has already been paid to the family and the family

(Signature)

pension is also being paid regularly and that the family owns a house. Further representation of the applicant was also rejected vide letter dated 5/6.1.2000 and this letter is just a repetition of the earlier letter dated 28.7.99. It shows that the respondents did not consider the contention in the representation submitted by the applicant after passing the previous order dated 7th August 1999. The learned counsel further argued that the respondents should have considered the case of the applicant according to the old policy dated 30.6.87 while this fact is not mentioned in any of the aforesaid two orders dated 2.8.99 and 5/6.1.2000. Hence the applicant is legally entitled to the reliefs claimed.

4. In reply, the learned counsel for the respondents argued that the family of the deceased has been paid terminal benefits amounting to Rs.2,62,934/- and the family is being paid monthly family pension @ Rs.3630/-. The family owns a house. The case of the applicant for compassionate appointment was considered by Circle Relaxation Committee held on 28.7.99 at M.P.Circle, Bhopal. Since the family was not found in indigent condition by the CRC with respect to the limited vacancy available under the 5% quota prescribed for compassionate appointment. There was no justification to change the decision taken by the CRC. The applicant was accordingly informed vide letter dated 5/6.1.2000. The learned counsel further argued that the applicant is not legally entitled to be considered under the old policy. Hence the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for the parties and carefully perusing the records, I find that the case of the applicant was considered by the Circle Relaxation Committee on 28.7.99 and this committee did not find the case of the applicant justified amongst more other deserving cases according to the guidelines, rules and instructions. Hence the application of the applicant was rejected vide



order dated 2.8.1999 (Annexure A-5). The applicant again submitted a representation Annexure A-6 dated 26.8.1999 giving certain new facts but the respondents have also not considered this representation of the applicant and again vide impugned order dated 5/6.1.2000 rejected the case of the applicant. In this order the respondents have mentioned that the decision taken by the circle relaxation committee on 28.7.1999 is correct and it is kept as it is and there is no justification to change this order. Hence, I find that the respondents have not considered the representation of the applicant dated 26.8.1999 (Annexure A-6), while it was their duty to consider it and decide it on merit. So far as the old policy dated 30th June, 1987 is concerned the applicant's father died on 18th July, 1996. The learned counsel for the respondents has drawn my attention towards OM dated 26th September, 1995 issued by the Government of India, Department of Personnel and Training in which it is mentioned that the compassionate appointment can be made up to the maximum of 5% vacancies falling under the direct recruitment quota in any Group-C or Group-D posts. The paragraph 5 of the old policy dated 30th June, 1987 stands amended after the issuance of the aforesaid OM dated 26.9.1995. Thus, the father of the applicant died after issuance of this OM dated 26.9.1995 i.e. on 18.7.1996.

6. After considering all facts and circumstances of the case, I am of the opinion that the order passed by the respondents dated 5/6.1.2000 (Annexure A-7) seems to be not legally justified. Hence, it is quashed and set aside and the respondents are directed to consider the representation of the applicant dated 26.8.1999 (Annexure A-6) and decide the same by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of a copy of this order.

7. Accordingly, the Original Application stands disposed of. No costs.

(Madan Mohan)
Judicial Member