

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 939/04

Jabalpur, this the 11th day of April, 2005

CORAM

Hon'ble Mr.Madan Mohan, Judicial Member

1. Smt.Durgawai Kewat
Widow of late Shri Kaluramji Kewat
R/o Arakash Mohalla
C/o Rajaram Pahalwan
Sehore (M.P.)
2. Pravin Kumar Kewat
Son of Late Shri Kaluramji Kewat
R/o Arakash Mohalla
C/o Rajaram Pahalwan
Sehore (M.P.)

Applicants

(By advocate Ku. P.L.Shrivastava)

Versus

1. Union of India through
Secretary, Department of
Posts and Telegraph
Government of India
New Delhi.
2. Chairman
Postal Service Board
Department of Posts
Chayan Bhawan, Sansad Marg
New Delhi.
3. Chief Post Master General
Madhya Pradesh Circle
Bhopal.
4. Post Master General
Indore (M.P.)
5. Superintendent of Post Offices
Sehore (M.P.)

Respondents.



(By advocate Shri M.Chaurasia)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks to quash orders dated 16.11.99 (Annexure A5) and dated 17.3.2004 (Annexure A10) and to direct the respondents to consider applicant No.2 on a suitable post on compassionate ground in accordance with policy formulated by respondents.

2. The brief facts of the case are that the husband of the applicant who was serving as Sub Postmaster died in harness on 15.12.96, leaving behind applicants 1 & 2 and 2 daughters. Applicant No.2 who was minor at that time, moved an application for compassionate appointment. The respondents vide letter dated 25.6.97 (Annexure A3) informed the applicant that his case would be considered when he turns 18 years. It is stated in the application that the terminal benefits received by the applicant No.1 were Rs. 1,82,456/- and the amount was spent on the marriage of her daughter Ku.Ashaa Kewat. Applicant No.1 is receiving family pension of Rs.2000/- since December, 2003. The applicants who belong to OBC category, do not possess any movable or immovable property. Applicant No.2 passed Higher Secondary School Certificate Examination. On attaining the age of majority, applicant No.2 submitted an application dated 30.6.99 to the department for compassionate appointment (Annexure A4). The respondents vide letter dated 16.11.99 informed the applicant No.2 that his request cannot be granted as the family received terminal benefits amounting to Rs.1,82,456 and also they are in receipt of monthly family pension of Rs.3253/- (Annexure A5). The applicant No.2 thereafter made various representations but to no avail. The respondents vide order dated 20/27.2.2002 informed the applicants that there was no reason to change the earlier order and rejected his request without assigning any cogent reason (Annexure A8).



Aggrieved, the applicants filed OA No.1/2003 and vide order dated 27.11.2003 the Tribunal allowed the OA and directed the respondents to consider the case of the applicant but the respondents again rejected the claim of the applicant vide order dated 17.3.004 (Annexure A10). This order is liable to be set aside. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicants that at the time of death of the husband of applicant No.1, applicant No.2 was a minor. He was informed by the respondents vide letter dated 25.6.97 (Annexure A3) that since he did not attain majority, his case for compassionate appointment would be considered when he turns 18 years of age. On attaining majority, the applicant No.2 had applied for compassionate appointment on 30.6.99 but his request was rejected by the respondents vide order dated 16.11.99 (Annexure A5) on the ground that sufficient amount has already been paid to the family as terminal benefits, a monthly family pension is also being given and the family is not in an indigent condition. Thereafter, the applicant No.2 have moved several representations. Ultimately, he filed OA No.1/2003 which was allowed by the Tribunal and the respondents were directed to consider the case of the applicant but the respondents have passed the impugned order dated 17.3.2004 without complying with the directions given by the Tribunal in the aforesaid OA. It is alleged in the application that the purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of breadwinner in the family. Merely paying retiral dues and pension is not a ground for rejection because retiral dues and pension are generally paid in each case to the family of deceased employee. The respondents should have considered other aspects and contentions of the applicant. The respondents should have considered the case of the applicant according to the old policy dated 30.6.1987 while they have considered the case according to the new policy in which the quota is limited up to 5% only. Hence the impugned order passed by the



respondents is not in accordance with rules and also not in compliance with the directions of the Tribunal. The OA deserves to be allowed.

4. In reply, the learned counsel for the respondents argued that the case of the applicant was placed before the Circle Relaxation Committee on 10.11.99 for consideration. The case was rejected by the committee and it was communicated to the applicants on 16.11.99. The condition of the family was not found in indigent circumstances. The family of the deceased has been paid terminal benefits amounting to Rs. 1,82,456/- and the family is being paid monthly family pension @ Rs. 3253/-. No separate vacancies are reserved under the scheme for compassionate appointment for OBC category. The respondents have considered the representation of the applicant No. 2 thoroughly and they have complied with the directions given by the Tribunal and have passed the impugned order dated 17.3.2004 (Annexure A-10). He further argued that the case of the applicant is not covered under the old policy dated 30th June, 1987 in view of the OM dated 26th September, 1995 as the husband of the applicant No. 1 and father of the applicant No. 2 died on 15.12.1996 i.e. after the issuance of the office memorandum dated 26th September, 1995.

5. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records I find that the husband of the applicant No. 1 and father of the applicant No. 2 late Kallu Ram Kewat died on 15.12.1996. I have perused office memorandum issued by the Government of India, Department of Personnel and Training, New Delhi dated 26th September, 1985 in which it is mentioned that it has been decided that compassionate appointment can be made up to the maximum of 5% of vacancies falling under the direct recruitment quota in any Group-C or Group-D post. This office memorandum is issued amending the paragraph 5 of the old policy dated 30th June, 1987 in which the quota of posts were 20% vacancies in Group-C and Group-D posts. Thus, in view of the aforesaid OM dated 26.9.1995 the old policy dated 30th June,



1987 seems to be not applicable in this case. The respondents have considered the case of the applicants and it was rejected vide order dated 16.11.1999. Thereafter the respondents have passed the impugned order dated 17th March, 2004 (Annexure A-10) in compliance with the direction given by the Tribunal in OA No. 1/2003 filed by the applicant and decided on 27th November, 2003. I have perused this impugned order dated 17.3.2004 (Annexure A-10) and find that the respondents have considered all the aspects of the case of the applicants. One daughter of the applicant No. 1 Smt. Asha Kewat married after the death of Kallu Ramji Kewat the deceased employee of the respondents and she is not living with the family of the applicants.

6. Considering all the facts and circumstances of the case, I am of the opinion that the applicants have failed to prove their case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

(Madan Mohan)
Judicial Member

पृष्ठांकन सं. ओ/व्या.....जबलपुर, दि.....
य तिलिधि भाग्ये दितः--
aa./"SA" (1) सचिव, नगर पंचायत, नगर पंचायत, जबलपुर
(2) आवेदक श्री/श्रीमती.....के काउंसलर
(3) प्रत्ययी श्री/श्रीमती.....के काउंसलर
(4) क्लर्क, कोषा, जबलपुर नगरपालिका
सूचना एवं आवश्यक कार्यवाही हेतु

12-4-05
जय राजिस्ट्रार

Forwarded
12-04-05

P. L. Shrivastava
DAU-2130
M. Chaurasia
DAU-2130