

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 639 of 2003

Jabalpur, this the 2nd day of August, 2004

Hon'ble Mr. Saruashwar Jha, Administrative Member
Hon'ble Mr. Madan Mohan, Judicial Member

Nishant Mohan Verma, aged
about 20 years, unemployed,
son of late Smt. Bharti Verma,
R/o LIG. 98, Civil Lines, Housing
Board Colony, Khandwa(M.P.)

APPLICANT

(By Advocate - Shri H.B. Shrivastava)

VERSUS

1. Union of India, through the Chief
Post Master General, Madhya Pradesh
Circle(Parimandal), Bhopal(M.P.)
Pin-462012.

2. Senior Superintendent Post
Offices, Khandwa Circle,
Khandwa(M.P.) Pin - 450 001

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

ORDER (ORAL)

By Saruashwar Jha, Administrative Member -

This application has been filed against the order
of the respondents passed on 5.12.2002 rejecting the
application of the applicant for appointment on compassionate
grounds. Earlier the applicant had approached this Tribunal
by OA No. 577/02 with similar prayer and the same was
disposed of by the Tribunal on 8.10.2002 with a direction to
the respondents that they should reconsider the case of the
applicant in the light of the facts and circumstances on the
subject within 2 months from the date of receipt of copy of
that order. The impugned order of the respondents dated
5.12.2002(Annexure-A-1) has been issued by them in compliance
with the direction of the Tribunal in the said OA.

2. It is observed that the case of the applicant for
appointment on compassionate grounds was considered by the
Circle Relaxation Committee in their meeting held on 20.11.02

S. Jha

in which it was observed that the family of the applicant was in receipt of the terminal benefits after the death of the mother of the applicant. It has also been mentioned in the impugned letter that the applicant is also in receipt of monthly pension and that they have a residential house of their own. Reference has also been made to the effect that only 5 percent of the posts earmarked for direct recruitment are available for appointment on compassionate grounds and as such posts are limited. They have also stated that under these circumstances it is possible to extend immediate assistance to the family of only such deceased employees who are helpless and in indigent condition. Accordingly, priority is given to such cases only. The respondents have accordingly stated that it has not been possible for them to consider the case of the applicant.

3. The learned counsel for the applicant has maintained that there are a number of decisions of the Hon'ble Supreme Court and also the Tribunal on the question that the terminal benefits cannot be held against the applicant for denying him/her ~~for~~ appointment on compassionate grounds on the death of the bread earner of the family. He has also contended that the payment of retiral benefits including pension is no bounty which is available to the applicant and the same cannot be made the basis for taking a view that the applicant does not deserve to be considered for appointment on compassionate grounds.

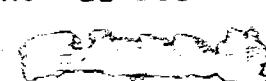
4. The respondents in their reply have confirmed that the mother of the applicant, who was a Pastel Assistant at Ghaspura, Khandwa, died on 20.9.96 and that, in compliance of the orders of the Tribunal in the said OA, the case of the applicant for appointment on compassionate grounds was reconsidered by them and it was found that the deceased employee had left behind the applicant and his sister aged about 13 (30 years written erroneously) and 10 years



respectively. They have also given details of the retiral benefits given to the family of the deceased employee in paragraph 1(2).

5. While giving the details of the family members and the benefits given to the applicant, it seems to have escaped the attention of the respondents ~~to~~ ^{that} the liability of the family as in the shape of marriage of the young daughter of the deceased ^{did exist}. They do not seem to have applied their mind as to whether the financial condition of the family is such as to bear this liability comfortably. It is also observed from the reply that the deceased had been divorced by her husband in the year 1995 and that he was responsible for maintenance of children only in terms of the provisions of Section 125 of the Criminal Procedure Code till the age of majority of the applicant. However, this aspect of the matter has not been mentioned in the counter reply filed by the respondents; it has been mentioned only during the course of arguments by the learned counsel for the respondents. It cannot, therefore, be taken note of while assessing the case of the applicant.

6. The learned counsel for the respondents has also in this regard referred to the letter reported to have been addressed by the sister of the applicant to the Post Master General, Bhopal submitting that the applicant can afford to have business or employment and, therefore, appointment on compassionate grounds may be considered to be given only to her. However, on perusal of the said letter, it is observed that this letter has been written by someone else and not by the sister of the applicant who is ^a class 10th student, as written under the applicant's name. It is difficult to consider this letter as genuine or as relevant at this stage.

7. On consideration of the submissions of both the sides, it is observed that the case of the applicant has been considered purely from the point of view of 

S. Me.

:: 4 ::

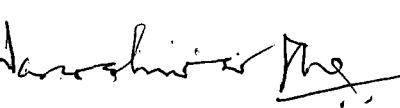
the amount of ratiral benefits which was received by the applicant's family after the death of the Government employee and it is on that basis only ^{that} they have rejected the request of the applicant for appointment on compassionate grounds.

They do not seem to have appreciated the other aspect of the matter including the liability of the children in respect of their marriage, education, etc.

8. In consideration of the facts and circumstances of the case and also what has been submitted by the learned counsel for the applicant, particularly in regard to the decisions of the Hon'ble Apex Court on the question of whether requests for appointment on compassionate grounds can be denied only on the basis of ratiral benefits, we are of the considered view that the case of the applicant merits reconsideration by the respondents with reference to the decisions of the Hon'ble Supreme Court on the subject.

9. Accordingly, we disposed of this OA with a direction to the respondents to give a fresh consideration to the case of the applicant with sympathy and with reference to the decisions of the Hon'ble Supreme Court on the subject and also keeping in view our observations as given above and ^{to} dispose of it by a reasoned and speaking order as per law within a period of three months from the date of receipt of ^a copy of this order. No order as to costs.


(Madan Mohan)
Judicial Member


(Sarweshwar Jha)
Administrative Member

rkv.

Received
On 10.8.04
BB

पूर्णांकन सं. ओ/व्ही.....जबलपुर, दि.....
प्रतिलिपि अब्दे छित:-
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/स्त्री.....के काउंसल N B Prakash
(3) प्रत्यर्थी श्री/श्रीमती/स्त्री.....के काउंसल K N Pethia
(4) वायपाल, को.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु P.D. 10-8-04
उपर रजिस्ट्रर ✓