

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.1 of 2003

Jabalpur, this the 27th day of November, 2003

Hon'ble Shri G. Shanthappa, Judicial Member

1. Smt. Durgawati Kewat, aged about 50 years, wd/p late Shri Kaluramji Kewat, R/o Aarakash Mohalla, C/o Rajaram Pehalwan, Sehore, Madhya Pradesh.
 2. Shri Praveen Kumar Kewat, aged about 21 years, S/o late Shri Kaluramji Kewat, R/o Aarakash Mohalla, C/o Rajaram Pehalwan, Sehore, Madhya Pradesh
- Applicants
- (By Advocate - Ms. P. L. Shrivastava)

Vs.

1. Union of India Through: The Secretary, Ministry of Postal & Information, New Delhi.
 2. The Chairman, Postal Service Board, Department of Posts, Chain Bhawan, Sansad Marg, New Delhi.
 3. Chief Post Master General, Madhya Pradesh Circle, Bhopal.
 4. Post Master General, Indore.
 5. Superintendent, Post Office, Sehore
- Respondents
- (By Advocate - Shri Om Namdeo)

O R D E R (Oral)

The applicants have filed this O.A. seeking the relief for quashing the orders dated 16.11.1999 (Annexure-A-7) and 20/27.2.2002 (Annexure-A-10), and also a direction to the respondents to consider/appoint applicant no.2 on suitable post on compassionate basis in accordance with the policy formulated by the respondents.

2. The case of the applicants is that the husband of the 1st applicant died on 15.12.1996 leaving behind herself, two daughters and one son, i.e. the 2nd applicant. It is submitted that subsequent to the death of her husband, her mother-in-law and also the sister of her husband are also dependants in their family.

2.1 As on the date of death of the husband of the 1st applicant, the 2nd applicant was minor, the respondents vide their order dated 25.6.1997 (Annexure-A-5) informed him that his case for appointment on compassionate grounds will be considered after attaining the age of 18 years. Thereafter,

the 2nd applicant applied for compassionate appointment on vide order dated 16.11.99 (Annexure-A-7) 30.6.1999. However, his application was again rejected on the ground that the family has received terminal benefits amounting to Rs.1,82,456/- and the family is also receiving family pension of Rs.3253/- per month. It was also stated that there was no minor dependent in the family.

2.2 Subsequent to the aforesaid rejection, the 2nd applicant submitted a detailed representation vide Annexure-A-8 dated 16.12.1999 clarifying the earlier doubts and also requested for further consideration for appointment on compassionate grounds. One more representation was also submitted to the Minister of Communication. However, vide order dated 20.2.2002 (Annexure-A-10) the respondents have rejected his claim stating that there is no basis to change the earlier decision.

2.3 The learned counsel for the applicants relied on the decision of the Hon'ble Supreme Court in the case of Balbir Kaur and another Vs. Steel Authority of India Ltd., AIR 2000 SC 1596 wherein their Lordships have held that "this Family Benefit Scheme cannot be in any way equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of death of the bread earner can only be absorbed by some lump sum amount being made available to the family - This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the bread earner, but that would undoubtedly bring some solace to the situation". The learned counsel further relied on the judgment of Hon'ble M.P. High Court in the case of Akeel Ahmed Khan Vs. General Manager, State Bank of India and others, 2003(4) M.P.H.T.167. In the said



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judgment the Hon'ble High Court has decided the issue in respect of appointment on compassionate grounds. At the time of death the deceased-employee was working as Deputy Head Cashier and the family of the deceased has ascertained retiral benefits to the tune of Rs.6,98,826/-. The liability of the deceased amounting to Rs.1,66,397/- was deducted and the remaining amount was paid to the family of the deceased. The Hon'ble High Court held that "it is a matter of common knowledge that in the ailment of cancer, the entire family suffers mental agony and financial loss. To survive the member ^{the} of family, mere payment of some amount towards gratuity and pension will not be sufficient to meet out the crisis. The petitioner made an application for compassionate appointment placing all the material facts before the respondents, but the respondents have not properly considered the case of the petitioner and have declined merely on the ground that some amount was paid to the petitioner and the family is getting pension. The aforesaid is not sufficient to deny the compassionate appointment. The policy of the respondents provides compassionate appointment and until and unless the respondents are satisfied that the family is in a position to meet the aforesaid crisis only in that circumstances the compassionate appointment may be refused, but the circumstance of the present case do not satisfy aforesaid requirement and the petitioner is entitled for compassionate appointment".

2.4 The case of the applicants is that the 1st applicant has performed the marriage of first daughter after the death of her husband and major portion of the amount of terminal benefits has already been spent on that account. They submit that they have no sufficient means to meet out the crisis and this aspect has not been considered by the respondents also. Hence, the relief prayed for in the OA may be granted.

3. Per contra, the respondents have filed their reply contending that the applicants are not entitled for

grant of any relief. The case of the applicants was placed before the committee on 10.1.1999 for consideration, however, the same was rejected and the applicants were informed accordingly on 16.11.1999. They have contended that the family of the deceased employee comprise of widow, one son and two daughters. One daughter married on 4.12.1998 i.e. subsequent to the death of husband of the 1st applicant. Now one son and one daughter (both ^{are} major) are living with the 1st applicant. The respondents have further contended that they have considered the family background and the financial status of the applicants and found that the deemed income of the family was much higher than the threshold income fixed by the Circle Relaxation Committee for determining indigency or otherwise of the families, therefore, the case of the applicants was rightly rejected vide Annexure-A-10 dated 20/27.2.2002. The respondents have requested that there shall not be any interference by the Tribunal and the application should be dismissed.

4. Heard the learned counsel for both the sides and perused the pleadings and documents available on record.

5. The learned counsel for the applicants submitted that the mother ^{and sister} of the deceased Govt. employee are also living with the applicants. In the representation dated 16.12.1999 (Annexure-A-8) the applicants have submitted in detail the complete facts, however, the impugned order dated 20/27.2.2002 only contains ^{ep} five lines order without assigning the reasons and the respondents have rejected the claim of the applicants. Hence, the impugned order is not sustainable in the eye of law.

6. In the result, the OA is allowed. The impugned order dated 20/27.2.2002 is set aside. The respondents are directed to consider the case of the applicants considering the contents of the representation at Annexure-A-8 and also the decisions in the cases of Balbir Kaur and another (supra) and Akeel Ahmed Khan (supra). Since the respondents have



