

6

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 594/2000

Mukesh Tiwari,
S/o. Shri RP Tiwari,
aged about 30 years,
R/o. A-6, Kamla Nehru Nagar,
Kotra, Bhopal.

... Applicant

Versus

1. Union of India,
through its Secretary,
Ministry of Post,
New Delhi.
2. The Chief Post Master General,
M.P. Circle, Bhopal - 462 012.
3. The Senior Superintendent of
Post Offices, Bhopal Division,
Bhopal.
4. Sunil Kumar Gogana,
S/o. Late Shri SP Gogana,
C/o. Sr. Superintendent Post Offices,
Bhopal Division, Bhopal.
5. Shri Pramod Kumar Mansuriya,
S/o. Late Shri SN Mansuriya,
C/o. Sr. Superintendent of Post
Offices, Bhopal Division,
Bhopal.

... Respondents

Counsel :

Shri Akash Choudhary Junior to Shri S. Paul for the applicant.
Shri P. Shankaran for the respondents No. 1 to 3.

Coram :

Hon'ble Shri Justice N.N. Singh - Vice Chairman.

O R D E R
(Passed on this the 3rd day of February 2003)

By Hon'ble Shri Justice N.N. Singh - Vice Chairman :-

The applicant has prayed to set-aside the order dated 13/03/2000 (Annexure A/1) by which the prayer for compassionate appointment of the applicant was rejected

M. N. Singh

and he has also prayed to direct the respondents to consider the case of the applicant for giving him compassionate appointment on a suitable post.

2. The case of the applicant is that the father of the applicant Late R.K. Tiwari, who was working as Assistant Post Master, Bhopal, GPO, died on 20/07/1994 while returning from his duty. It was further claimed that the mother of the applicant filed application Annexure A-3, giving details of the family members alongwith the prescribed form Annexure A-4, but the respondents, by order dated 17/10/1995 (Annexure A-5) rejected the application for compassionate appointment of the applicant. Thereafter the applicant filed OA No. 482/1996 against the decision of the respondents in not giving him Compassionate appointment and granting compassionate appointment to respondent No. 4 and 5 who were given compassionate appointment by the respondents inspite of the fact that reportedly, in the case of respondent No. 4, more than Rs. 3 Lakhs was given to the family of respondent No. 4 as retiral benefits and the deceased owned three houses, in comparison to the applicant. It was further claimed that respondent No. 5 was given compassionate appointment inspite of the fact that his elder brother Shri Vinod Mansuriya was employed as permanent UDC in the office of DPI, Bhopal and another brother Harish Kumar Mansuriya was employed as LDC in the office of Block Education Officer, Gairatganj. It was claimed that the aforesaid OA No. 482/1996 directed the respondents to reconsider the case of the applicant observing that some less deserving candidates were given compassionate appointment. According to the applicant the respondents, after such observation had no other way, but to appoint this applicant unless there

good reasons for non-appointment, but the respondents by impugned order dated 13/03/2000 in a stereotyped manner again rejected the case of the applicant and hence this application.

3. The respondents contested the claim of the applicant by filing reply admitting therein that father of the applicant late R.P. Tiwari, Assistant Post Master, Bhopal GPO died in harness on 20/07/1994 and that his normal date of superannuation was 31/12/1996. The case of the respondents is that the deceased employee left behind his widow and two major sons namely this applicant and Shri Rakesh Tiwari. It was further claimed that the family received Rs. 1,36,406/- as retiral benefits and a family pension of Rs. 3,874/- per month and that the sons of the deceased are earning Rs. 2200/- per month and that the family had its own house at Kamla Nagar, Bhopal. According to the respondents, on the request of the wife of the deceased employee to give compassionate appointment to the applicant, the case was considered by the Circle Relaxation Committee which met on 22/23-08-1995, but the committee did not recommend the case of the applicant in relaxation of normal recruitment rules. It was further claimed that the applicant filed OA No. 482/1996 which was decided by this Tribunal directing the respondents to reconsider the case of the applicant for compassionate appointment to a suitable post based on availability of vacancy and qualification of the applicant. It was claimed that the CRC, after considering the case, rejected the application of the applicant on the ground that at the time of death of the ex-employee, both the sons including the applicant were major and were earning their livelihood and that the family had received terminal benefits of Rs.

M.D.N.B.

1,36,406/- and pension of Rs. 3,874/-, and that no minor dependents were in the family except the two major sons and that the case of compassionate appointment was to be considered only when the condition of the family was indigent. The respondents asserted that the order of this Tribunal dated 23/12/1999/in OA No. 482/1996 to reconsider the case of the applicant based on availability of vacancy and qualification of the applicant did not automatically entitle the applicant for appointment and such claim of the applicant was misconceived and untenable. It was pointed out that such direction itself required to consider the vacancy position vis-a-vis the other cases of compassionate appointment. On these grounds it was prayed to dismiss this application of the applicant.

4. A rejoinder was filed on behalf of the applicant asserting therein that less deserving candidates, as per observation of the Tribunal, were given compassionate appointment and that the respondents had not mentioned anything in their return regarding appointment of private respondents. It was also denied that applicant or his brother was on employment when the case of the applicant was considered for compassionate appointment.

5. I have heard learned counsels of both the sides and have gone through the record. This/admitted case that the father of the applicant died on 20/07/1994 and that he was working in Bhopal, GPO, as Assistant Post Master. From perusal of Annexure A-3 it further appears that the deceased left behind his widow and two major sons including this applicant and two married daughters. From perusal of Annexure A-4, it further appears that in normal course the deceased would have superannuated on 31/12/1996 meaning that

Mony

and about 2 years/5 months service was left over. This is also admitted that the family received Rs. 1,36,406/- as retiral benefits and Rs. 3,874/- as family pension and that the family had its own house in Kamla Nagar, Bhopal. The respondents asserted that both the major sons of the deceased were earning members and was earning Rs. 2200/- per month. This fact was controverted by the applicant in rejoinder stating therein that the applicant or his brother were not employed at the time the application was considerd. But they do not deny that they are not employed thereafter.

5.1. The whole case of the applicant appear to be based on their assertion that respondent No. 4 and 5 were granted compassionate appointment, comparatively less deserving. No details of their family has been given by the applicant nor it was disclosed that when they were given compassionate appointment. If some undeserving person has been given compassionate appointment against the settled norms, the Department should consider and take suitable action, but no compassionate appointment could be granted only on the ground that less deserving man was given compassionate appointment. Such exercise would be endless affair negating the norms and procedures established for giving compassionate appointment.

5.2. So far as the case of the applicant is concerned admittedly there was not minor son or unmarried daughter in the family of the deceased and the family had its own house and had received Rs. 1,36,406/- as retiral benefits besides the family pension of Rs. 3,705/-. This is true that only retiral benefits and family pension cannot be the consideration for the case of compassionate appointment, but these are one of the factors to consider whether the family is in indigent condition or not. Needless to say

that getting compassionate appointment is not a vested right or hereditary right. This cannot be forgotten that the very object of giving/compassionate appointment was to grant immediate relief to the family which was/plunged suddenly to penury due to untimely death of its sole breadearner. It has been held by the Apex Court in the case of Harayana Electricity Board and others versus Hakim Singh reported at 1999(1)SLJ(SC) 114, that the object of providing such ameliorating relief should not be taken as an opening of an alternative mode of recruitment to public employment.

6. On the basis of discussion made above I find no merit in this original Application and it is accordingly dismissed, but without any order as to cost.

N.N. Singh

(N.N. SINGH)
VICE CHAIRMAN

पूछकर्ता सं ओ/व्या..... जबलपुर, दि.....
पतिलिपि अब्दोलितः—
(1) महिला, उत्ता न्यायालय वार एसोसिएशन, जबलपुर
(2) अब्दोली दी, बीजाती/कु..... के काउंसल
(3) प्रसादी दी, बीजाती/कु..... के काउंसल
(4) अंबेपाल, दीपा, जबलपुर एवं तीन
सूचना एवं आवश्यक कार्यवाही हेतु

S. Date 1/2/03
P. Shankarao, D of 4

Office Seal
उप सचिव
4/2/03

Issued
on 4-2-03
BB

"SA"