

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 7th day of July, 2006

ORIGINAL APPLICATION No 257/2005.

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

Balmukund Verma
s/o late Shri Nathu Lal Verma,
aged about 20 years,
r/o Near Khadi Bagh,
Village and Post Bonli,
District Sawaimadhopur.

..Applicant

(None present)

Versus

1. Union of India through Secretary,
Department of Post India,
New Delhi.
2. Chief Postmaster General,
Department of Post India,
Rajasthan Circle,
Jaipur
3. The Superintendent of Post Offices,
Sawaimadhopur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma)

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ORDER (ORAL)

The applicant has filed this OA thereby praying for quashing the order dated 26.2.2005 (Ann.A2) whereby case of the applicant for grant of compassionate appointment was rejected and has further prayed that the respondents may be directed to give appoint to the applicant on compassionate grounds.

2. The facts of the case which are not in dispute are that father of the applicant late Shri Nathu Lal Verma expired on 20.12.2002 while working as Mail Overseer, Gangapur. After death of father of the applicant, mother of the applicant namely Smt. Kamala Devi submitted application dated 7.11.2003 for giving appointment to her son Shri Balmukund Verma, applicant, on compassionate grounds under relaxation of recruitment rules. This application was not in prescribed proforma. The information in prescribed proforma was asked for. Accordingly, complete case of the applicant for appointment on compassionate grounds was received in the office of Principal Chief Postmaster General, Rajasthan Circle, Jaipur on 20.7.2004. The case of the applicant was put up before the Circle Relaxation Committee (CRC) which met on 1.2.2005 and 10.2.2005. The Committee after objective assessment of the financial condition of the family did not find the family in indigent condition, hence

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the case was rejected. The said order was conveyed to the applicant vide letter dated 26.2.2005 (Ann.A2). It is this order which is under challenge in this OA.

3. The respondents have filed reply. The facts as stated above, have not been disputed by the respondents in their reply. It is further stated that the CRC considered the case of the applicant alongwith 25 other cases as per the instructions contained in Department of Personnel and Training OM dated 9.10.1998, 3.12.99 and 24.11.2000 (Ann.R1 to R3). It is further stated that there were four vacancies available for appointment on compassionate grounds in the cadre of Postal Assistant/Sorting Assistant in the year 2003 for which the applicant as per his educational qualification was eligible. The case of the applicant was considered against four vacancies alongwith 25 other cases. The CRC observed that Shri Nathu Lal Verma, ex-Mail Overseer, Gangapur expired on 20.12.2002 after attaining the age of 56 years. He was due to retired on superannuation on 31.5.2006. It is further stated that the deceased has left his wife, three unmarried sons aged 26 years, 20 years and 18 years respectively and one unmarried daughter (15 years). The elder son Shri Dilip Kumar who is M.A., B.Ed. and employed in Rajiv Gandhi Pathshala at the monthly allowance of Rs. 2400/- has not applied for appointment on compassionate grounds. Other two sons

of the deceased were also major on the date of death of the employee and they can easily assist the family to meet their future liabilities. The family is receiving pension of Rs. 1600+DR per month. The family had received terminal benefits of Rs. 108528/-. The family has own house to live in. In view of above, the case of the applicant was not found more indigent in comparison to other cases, hence the same was not recommended by the CRC for appointment on compassionate grounds. The respondents have also annexed comparative chart mentioning financial condition of the applicant and approved candidates with the reply.

4. The applicant was given repeated opportunity to file rejoinder. When the matter was listed on 7.2.2006, this Tribunal observed that the applicant has not filed rejoinder and let the same be filed within three weeks and the matter was listed for final hearing on 7.3.2006. This order was passed in the presence of the learned counsel for the applicant. On 7.3.2006, none appeared on behalf of the applicant and this Tribunal granted further opportunity to the applicant to file rejoinder and the matter was listed for final hearing on 9.4.2006. Thereafter the matter was adjourned to 10.4.2006. The applicant did not appear on the next date of hearing also and it was *observed* that the matter be listed for hearing on

19.5.2006, as the applicant was not interested in filing rejoinder. On 19.5.2006, none appeared on behalf of the applicant and this Tribunal passed the following order:-

"From the order sheet it appears that even on 7.3.2006 and 10.04.2006, none has appeared on behalf of the applicant. Let the matter be listed for final hearing on 7.7.2006. It is made clear that no further adjournment will be granted on that date and the matter will be decided finally in case none appears on behalf of the applicant."

Accordingly, the matter was listed for hearing today. None has appeared on behalf of the applicant even today, as such, this Tribunal proceeded to hear the matter in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

5. I have heard the learned counsel for the respondents and gone through the material placed on record. I am of the view that the applicant has not made out any case for grant of relief.

6. As already stated above, the case of the applicant for compassionate appointment against 4 available vacancies was considered alongwith 25 other cases. The CRC did not recommend the case of the applicant as according to the Committee condition of the family was not found indigent after the objective assessment of the financial condition and recommended four most deserving cases for appointment to the post of Postal Assistant/Sorting Assistant. I have also

gone through the comparative chart of the financial condition of the applicant and approved candidates annexed by the respondents alongwith reply as Ann.R4, which is in the following terms:-

| Sl.No. | Name of the applicant | Date of death of employee/invalid retirement of employee | Date of superannuation of employee | Amount of pension | Amount of terminal benefits | Property | Income from other sources |
|--------|---|--|------------------------------------|-------------------|-----------------------------|--|---------------------------|
| 1. | Shri Rajesh Kumar s/o Shri Bajrang Lal Meena | 21.8.2002 | 31.10.2016 | Rs.1275+DR | Rs.42,885 | Own house, Agriculture land 7.25 Bigha | Rs. 5000 PA |
| 2. | Shri Kamal Sen S/o late Shri Kishan Lal Sen | 6.9.2003 | 31.08.2016 | Rs.1790+DR | Rs.1,52,225 | Nil | Nil |
| 3. | Shri Ashok Kumar Bhagat s/o late Shri S.N.Bhagat | 13.4.96 | 31.12.2017 | Rs.1450+DR | Rs.87,677 | Nil | Nil |
| 4. | Shri Hanuman Sahai Meena s/o late Shri Shiv Ram Meena | 17.3.99 | 21.12.2018 | Rs.1637+DR | Rs.1,60,240 | Own Kacha house | Nil |
| 5. | Shri Bal Mukund s/o late Shri Nathu Lal Verma | 20.12.02 | 31.05.06 | Rs.1600+DR | Rs.1,08,528 | Own House | Rs.2400 |

| Sl.No. | Family Members | Unmarried | | Minor | | Major | | Remarks |
|--------|----------------|-----------|----------|-------|----------|-------|----------|---|
| | | Son | Daughter | Son | Daughter | Son | Daughter | |
| 1. | 5 | 1 | 1 | - | - | 2 | 1 | Approved, as the official got invalidated retirement due to paralysis |
| 2. | 4 | 1 | 2 | - | 1 | 1 | 1 | Approved |
| 3. | 4 | 2 | 1 | 1 | 1 | - | - | Approved, mother of the applicant also expired on 11.2.1999 |
| 4. | 5 | 2 | 1 | 1 | 1 | 2 | - | Approved |
| 5. | 5 | 3 | 1 | - | 1 | 3 | - | Rejected, elder son is employee in Rajiv Gandhi Pathshala at monthly allowances of Rs. 2400/- |

From perusal of the information given in the comparative chart, it is clear that case of the person selected at Sl.No.1 is entirely different from other three selected candidates and the applicant. In the case of candidate selected at Sl.No.1 namely Shri Rajesh Kumar, his father Shri Bajrang Lal Meena sought invalid retirement due to paralysis. The date of superannuation of Shri Bajrang Lal Meena has been shown as 31.10.2016. As such, he has sought invalid retirement 14 year prior to the date of superannuation. In case the competent authority has considered that in view of ^{provisions contained in} Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Shri Bajrang Lal Meena should be retired instead of retaining him in service and thereby making full pay and allowances for 14 years i.e. up to the date of his normal superannuation and in his place, one of the family member can be engaged so that work can be executed and public interest does not suffer, no exception can be made to such procedure. As such, case of candidate at Sl.No.1 has to be considered in the light of aforesaid background. Even otherwise also, from the particulars as stated above, there is no infirmity in case his name has been approved by the Committee alongwith other three candidates as admittedly there are 5 members in the family and amount of pension received by the family is Rs. 1275 + DR per month as against Rs. 1600 + DR in the case of the

applicant. Further, the terminal benefits received by the family of Shri Rajesh Kumar is Rs. 42,885 as against Rs.1,08,528 in the case of the applicant. So far as other 3 selected candidates are concerned, candidates selected at Sl.Nos. 2 and 3 have no other source of income as well as house to live in whereas the family of the applicant is possessing their own house and income from other sources is Rs. 2400/- per month. Similarly, in the case of the candidates at Sl.No.4, there is no source of income and the house owned is Kacha house. Further, from the particulars given above, it is clear that father of the candidate at Sl.No.1 has sought retirement prior to 14 years from the date of his superannuation whereas fathers of the candidates at Sl.No. 2,3 and 4 died 13 years, 21 years and 19 years prior to retirement on superannuation whereas in the case of the applicant his father died 3 ½ years prior to his date of superannuation. As such, father of the selected candidates has to put in long years of service but for their invalid retirement/death, whereas father of the applicant was at the verge of retirement. Thus, from the comparative statement as reproduced above, it cannot be said that the Circle Relaxation Committee has made recommendation arbitrarily thereby ignoring the claim of the applicant. The respondents have categorically stated in the reply that elder brother of the applicant Shri Dilip Kumar is employed in Rajiv Gandhi Pathshala and

earning Rs. 2400/- per month and other two sons of the deceased who were major at the time of death of the employee can assist the family to meet their future liabilities. The family is receiving family pension of Rs. 1600 + DR per month and has received terminal benefits amounting to Rs. 1,08,528. It is further stated in the reply that family has house to live in. This part of the averment has not been controverted by the applicant at all.

7. Thus, taking into consideration entire facts of the case and the fact that there were only four posts available against which four most deserving candidates have been recommended by the CRC, it is not legally permissible for this Tribunal to give direction to the respondents to give appointment to the applicant on compassionate grounds more particularly in the absence of any vacancy. Accordingly, the OA is dismissed with no order as to costs.



(M.L. CHAUHAN)

Member (Judicial)

R/