

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 13th day of September, 2005

ORIGINAL APPLICATION No.418/2005

CORAM:

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

Prithvi Raj s/o late Shri Sudhan singh, aged about 26
years, r/o Village Bassi, District, Ajmer, Rajasthan.

.. Applicant

(By Advocate: Mrs. (Dr.) Swati Bhati)

Versus

1. Union of India through
The Secretary,
Postal Services,
Government of India,
New Delhi.
2. The Chief Post Master General,
Jaipur (Raj).
3. The Superintendent of Post Offices,
Pali Division,
Pali, Rajasthan.

.. Respondents

(By Advocate:

ORDER (ORAL)

The applicant has filed this Original Application
against the order dated 20.2.2001 (Ann.A1) whereby
case of the applicant for compassionate appointment
was rejected. In relief clause, the applicant has
prayed that appropriate directions be given to the

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respondents to consider candidature of the applicant for compassionate appointment by quashing the impugned letter dated 20.2.2001.

2. Facts of the case, as stated in the OA, are that father of the applicant while working on the post of Peon with the respondent department died on 9.3.1986. It is further stated that mother of the applicant applied for compassionate appointment within the prescribed time. The case for compassionate appointment of the mother of the applicant was considered and vide letter dated 16.3.1990, mother of the applicant was offered compassionate appointment. It is further stated that this letter was received by her father-in-law as at the relevant time, the mother of the applicant has gone to his maternal house, thus was not in the knowledge of the said letter. It was only after the death of her father-in-law while opening a suit case belonging to him that the mother of the applicant found appointment letter in that suit case and after knowing about the appointment letter, mother of the applicant met the respondents personally and told them about the whole episode. It is further stated that mother of the applicant received a letter dated 6.5.1997 whereby she was advised by the department to submit fresh application for compassionate appointment of her son in her place. Copy of this letter has been placed on record as

Ann.A2. It is the case of the applicant that mother of the applicant complied with the advise of the respondents and accordingly applied for compassionate appointment of her elder son and for that matter the other LRs of the applicant gave their willingness for compassionate appointment to the applicant. It is further stated that the applicant and his mother pursued the matter with the respondents and also gave many representations. Copy of some of the representations dated 13.9.1999, 8.6.2000 and 1.7.2000 made by the applicant and his mother are collectively annexed at Ann.A3. Vide impugned letter dated 20.2.2001, the request for compassionate appointment of the applicant was rejected on the ground mentioned therein. It is this order which is under challenge before this Tribunal.

3. The main ground taken by the applicant in support of his claim is that father of the applicant died while in service and as such applicant is fully eligible and entitled for appointment on compassionate grounds and also that the family of the applicant is facing financial hardship as none of the family members is in the government service and also there is no other means of their livelihood. Whole of the family was dependent on the deceased government servant. In such a situation, the respondents are

depriving the applicant for getting compassionate appointment in illegal manner.

4. I have heard the learned counsel for the applicant at admission stage. I am of the view that the present application is liable to be dismissed on more than one ground.

4.1 As already stated above, the applicant has challenged the impugned order dated 20.2.2001 by filing OA on 7.9.2005. In para 3 of the application the applicant has made the following averments:

“3. That the applicant further declares that the application is within the limitation period as prescribed in Section 21 of the Administrative Tribunals Act, 1985.”

The applicant has neither made even a single averment in the OA nor annexed any document with the OA as to what steps the applicant took after passing of the impugned order dated 20.2.2001 whereby application of the applicant was rejected and why he has not approached the Tribunal within the time prescribed under Section 21 of the Administrative Tribunals Act, 1985. Thus, the applicant has not shown any cause what to speak of sufficient cause for condonation of delay, as such the present OA is liable to be dismissed on the ground of limitation alone in view of the law laid down by the Apex Court in the case of Ramesh Chand Sharma vs. Udham Singh Kamal, 2000 SCC (L&S) 53.

4.2 Even on merit, the applicant has got no case. At the outset, it may be stated that the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over sudden financial crisis and not to provide employment. This is because as a rule appointments in public service should be made strictly on the basis of open invitation of applications and no other mode of appointment nor any other consideration is permissible. However, to this general rule, which is to be followed strictly in all cases of public appointment, there are certain exceptions carried out in the interest of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee died in harness and leaving his family in penury and without any means of livelihood. In such cases out of humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased employee, who may be eligible for such employment. So, the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis. Laying down the above principles in *Umesh Chandra Nagpal vs. State of Haryana*, (1994) 4 SCC 138 ; *Jagdish Prasad v. State of Bihar* (1996) 1

SCC 301 (supra) and S. Mohan v. Government of T.N., (1998) 9 SCC 485, the Supreme Court has cautioned that the object is not to give a member of such family a post not less than the post held by the deceased employee.

4.3 Mere death of an employee is not sufficient to entitle the dependant of the family for compassionate appointment. The Government of the public authority concerned has to examine the financial condition of the family, and it is only when it is satisfied that but for the provision of employment the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The Supreme Court has cautioned that it must be remembered that as against the destitute family of the deceased, there are millions of other families, which are equally, if not more, destitute. It is, therefore, pointed out by the Supreme Court in Umesh Chandra Nagpal (1994 AIR SCW 2305) (supra) : Jagdish Prasad (1996 (1) SCC 301) (supra) ; Director of Education (Secondary) v. Pushpendra Kumar, (1998) 5 SCC 192 ; that an exception to the general rule that all appointments in public service shall be made strictly on the basis of open selection on merits, is made in favour of the family of the deceased employee in consideration of the services rendered by him and the legitimate expectations and changes in the status and affairs of the family engendered by erstwhile

employment which are suddenly upturned. The Supreme Court also indicated that the compassionate appointment cannot be granted after a lapse of reasonable period if that be so, it must be specified in the rules and the object being to enable the family to tide over the financial crisis which it faces because of the sudden death of the sole bread-earner, the compassionate employment cannot be claimed and offered after long lapse of time more so, when the crisis is over, it is because, the consideration of such employment is not the vested right which can be exercised at any time in future.

4.4 If the matter is considered in the light of the ratio laid down by the Apex Court as noticed above, it is seen that the applicant is not entitled to any relief. As already stated above, mere death of an employee is not sufficient to entitle the dependant of the family for compassionate appointment. The Circle Selection Committee after examining the financial condition of the family has concluded that the family has able to survive for such a long time which shows that the financial status of the family was adequate to meet their requirements. In view of this categorical finding and also that the Hon'ble Supreme Court has indicated that compassionate appointment cannot be granted after a lapse of reasonable period and the fact that the family has survived for long period is itself a ground for declining the relief of

compassionate appointment and as such I see no infirmity in the impugned order. In the instant case father of the applicant died on 9.3.1986 and family has somehow managed to survive during the aforesaid period of about 20 years is itself a ground for rejection of the claim. At this stage, it will be useful to notice the decision of the Apex Court in the case of Sanjay Kumar vs. State of Bihar, AIR 2000 SC 2782 wherein in para 3 the Apex Court has made the following observations:-

“We are unable to agree with the submissions of the learned counsel for the Petitioner. This Court had held in a number of cases that the compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the breadearner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in Director of Education Vs. Pushpendra Kumar supra. It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.88, the Petitioner was a minor and not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there is some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate reliefs.”

4. In view of what has been stated above, I am of the view that the applicant is not entitled to any relief. Accordingly, the OA is dismissed with no order as to costs.



(M.L. CHAUHAN)
Member (J)

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