

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 11th day of August, 2008

ORINATION APPLICATION NO. 288/2006

CORAM:

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

Kum. Archana Sharma D/o Late Shri B.K. Sharma aged about 28 years, resident of 183/132, Pratap Nagar, Sanganer, Jaipur.

.....APPLICANT

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Sr. Superintendent Post Offices, Jaipur City Division, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. Dinesh Chandra Sharma)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the followings relief:-

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- "(i) That by a suitable Writ/order or the direction the impugned order dated 12.09.2005 vide Annexure A/1 be quashed and set aside and further the respondents be directed to provide the job on the base of the compassionate grounds.

(ii) Any other relief which the Hon'ble Bench deems fit."

2. Briefly stated facts of the case are that father of the applicant expired on 22.01.2003. Application for grant of appointment on compassionate grounds was given and in pursuant to, the case of the applicant for grant of appointment on compassionate appointment was forwarded to the Chief Postmaster General, Rajasthan Circle vide letter dated 23/25.04.2003, issued by the Sr. Superintendent of Post Offices, Jaipur City Division, Jaipur. As per the educational qualification, the applicant was found eligible for the post of Postal Assistant. The case of the applicant was considered by the Circle Relaxation Committee on 01.02.2005/10.02.2005 against the vacancies of compassionate appointment of the year 2003 but the case of the applicant was not recommended due to non availability of vacancies for the year 2003. The case of the applicant was again considered by the Circle Relaxation Committee on 22.08.2005 against the vacancies for the year 2004 but the Circle Relaxation Committee did not find the case most indigent in comparison to other cases. The proceedings of the Circle Relaxation Committee was communicated to the applicant vide order dated 12.09.2005 (Annexure A/1). It is this order which is challenged before this Tribunal.

3. The grounds on which the findings of the Circle Relaxation Committee has been challenged in this OA are that the deceased employee expired leaving a big family in an indigent condition. There is clear cut provision in the rules that in such a condition where the bread earner has left the family behind him, job has to be provided.

According to the applicant, the retrial benefits which has been received by the family has been adjusted against the loan taken from the Co-operative Societies, RMS Jaipur and the deceased has not left any property behind him and only a sum of Rs.51,923/- out of Rs.2,80,604/- was left in the hands of the family after the death of the deceased employee, which was paid to the family as retrial dues.

4. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, the respondents have categorically stated that the case of the applicant was considered by the Circle Relaxation Committee. There was no vacancy under the ceiling of 5% to help the applicant. The Committee rejected the case of the applicant after taking into account all the factors of the Scheme. According to the respondents, there were more deserving cases, which were entitled for grant of appointment on compassionate grounds and as such the case of the applicant could not be considered for appointment on compassionate grounds.

5. The applicant has filed rejoinder thereby reiterating the stand taken by him in the OA.

6. I have heard the learned counsel for the parties and have gone through the material placed on record.

7. At the outset, it may be stated that ^{in order to find out} whether the case of the applicant was considered in proper perspective, this Tribunal vide order dated 08.01.2008 passed the following order:-

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"Respondents in Para No. 2 of their reply have categorically stated that the case of the applicant for compassionate appointment was considered against the vacancy for the year 2004 and the CRC did not find the case as most indigent in comparison to other cases. The respondents are directed to either produce the relevant record whereby the case of the applicant was considered alongwith other persons in the meeting held on 22.08.2005 on the next date of hearing or to file an affidavit thereby giving particulars of the persons who have been given compassionate appointment so that the matter can be examined whether the persons who have been given compassionate appointment was most indigent as compared to the case of the applicant."

8. The relevant record was produced before this Tribunal on 10.04.2008. This Tribunal after perusing the proceeding of the Circle Relaxation Committee found that the applicant has obtained 59 marks whereas the persons who have obtained 68 and 75 marks, their cases for grant of appointment on compassionate grounds has been recommended. The applicant has obtained less mark and there was no vacancy available against which the applicant could be appointed. This Tribunal further noticed that the person at sl. No. 10, who has been awarded 89 marks, his case has not been recommended for grant of appointment on compassionate grounds. This Tribunal directed to the respondents to file a supplementary affidavit explaining the position under what circumstances a person who has obtained higher marks i.e. 89 has been ignored whereas compassionate appointment has been given to the persons who have obtained lesser marks i.e. 68 and 75 marks.

9. The respondents have filed supplementary affidavit in which it has been stated that Sandeep Panwar whose name find mentioned at Sl. No. 10 of the chart, his father

expired on 02.01.1994 leaving behind widow, one unmarried son aged 15 years and three unmarried daughters aged 17 years, 13 years and 11 years respectively. The family was sanctioned family pension of Rs.740/- plus DR and paid terminal benefits of Rs.109,429/- and living in his own house. The said case was earlier considered on 18.01.2001 and 27.06.2003 but rejected as the case was not found most indigent in comparison to the case approved up to the vacancies available at that time for the purpose. The Circle Relaxation Committee while considering the cases more than five years old ^{was required to} see that the concept of compassionate appointment is largely related to the need for immediate assistant to the family of the Government servant in order to relieve it from economic distress. Further the widow did not apply immediately for compassionate appointment for herself. She only applied for her son in the year 1997 after three years from the death of the deceased employee. Since now the case was 11 years old and the family has been able to manage some how all these years, the case of Sandeep for grant of appointment on compassionate grounds was not recommended by the Circle Relaxation Committee.

10. Thus from the material placed above, it is evident that it cannot be said to be a case where the Circle Relaxation Committee has adopted pick & choose method in recommending the names of the persons for grant of appointment on compassionate grounds. As already stated above, facts remains that against two vacancies, those persons who have obtained higher marks, their cases were recommended being deserving candidates as comparison to the applicant, who has obtained less mark. Thus I am of the

view that applicant has not made out any case for my interference as the applicant could not have been given appointment on account of limited vacancies. That part, as can be seen from the impugned order dated 12.09.2005 (Annexure A/1), Circle Relaxation Committee, which met on 22.08.2005, had made the following observations in the case of the applicant:-

1. The ex-official expired on 22.1.2003.
2. As per synopsis, the ex-employee had left widow mother and two unmarried daughters.
3. As per educational qualification, the applicant was eligible for appointment on compassionate grounds on the post of PA/SA.
4. The family is getting family pension amounting to Rs. 2687 + DR per month.
5. The family had received terminal benefits to the tune of Rs.2,80,604/-
6. The family is living in rented house.


The Committee reconsidered the case in the light of instructions issued by the DOP & T. OM dated 9.10.98 followed by clarification issued vide OM dated 3.12.99, 20.12.99, 28.12.99 and 24.11.2000 and vacancy position of the cadre.

The Committee, after objective assessment of financial condition of the family did not find the family in indigent condition and hence the case was again rejected."

11. In view of the finding recorded hereinabove, I am of the view that there is no infirmity in the impugned order. The family is getting family pension of Rs.2687 plus DR, and has received terminal benefits to the tune of Rs.2,80,604/- and as such the finding recorded by the Circle Relaxation Committee that the family is not in indigent condition cannot be interfered with. Law on the point is well settled by the Apex Court wherein it has been

held that appointment on compassionate grounds is in violation of provisions contained under Articles 14 & 16 of the Constitution of India and such appointment cannot be justified. However, the Apex Court has held that appointment on compassionate grounds be given only in deserving cases where the family is in indigent circumstances and need immediate assistance in order to relieve economic distress. It is only these circumstances that appointment on compassionate grounds can be made in exceptional & deserving cases. This is not a case of such nature and more particularly there is no vacancy, as such no infirmity can be found in the impugned order.

12. Accordingly, the OA is bereft of merit and is dismissed with no order as to costs.


(M.L. CHAUHAN)
MEMBER (J)

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