

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Jaipur, the 17<sup>th</sup> day of October, 2008

ORIGINAL APPLICATION NO.221/2007

CORAM :

HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Vishnu Prasad Gupta  
S/o Late Shri Babu Lal Gupta,  
R/o Village & Post Hathodli (Khirani),  
District Sawai Madhopur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus.

1. Union of India through  
Secretary to the Govt.,  
Department of Posts,  
Ministry of Communication &  
Information Technology,  
Dak Bhawan, Sansad Marg,  
New Delhi.
2. Chief Post Master General,  
Rajasthan Circle,  
Jaipur.
3. Supdt. of Post Offices,  
Sawai Madhopur Postal Division,  
Sawai Madhopur.

... Respondents

(By Advocate : Shri T.P.Sharma)

ORDER

PER HON'BLE MR.B.L.KHATRI

The applicant has filed this OA under Section-19 of the Administrative Tribunals Act, 1985, challenging the order dated 12.7.2007 (Ann.A/1), whereby his claim for appointment on compassionate

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grounds has been rejected by the respondents. Through this OA, the applicant has prayed for the following relief :

- “i) That the entire record relating to this case be called for and after perusing the same respondents may be directed to reconsider and to give appointment to the applicant on compassionate grounds on the post of Gramin Dak Sevak Branch Post Master, Hathdoli Branch Post Office, against vacant post by quashing letter dated 12.6.2007 (Ann.A/1) with the notification dated 18.6.2007 (Ann.A/5) with all consequential benefits.
- ii) That the respondents may be directed not to fill up the post of Gramin Dak Sevak Branch Post Master, Hathdoli, without further consideration of the applicant.”

2. Brief facts of the case are that the applicant is the younger son of late Shri Babu Lal Gupta, who was holding the post of Gramin Dak Sevak, Branch Post Master, Hathdoli (Khirani), Sawai Madhopur. Father of the applicant expired on 31.3.2007, as per death certificate Ann.A/2.

3. Complete case of the applicant for appointment on compassionate ground was submitted to the Chief Postmaster General, Rajasthan Circle, Jaipur, vide Superintendent of Post Offices, Sawai Madhopur Division, letter dated 11.5.2007. Applicant's case for compassionate appointment had been considered by the Circle Relaxation Committee (CRC) by circulation of papers. The CRC considered the case of the applicant keeping in view the liabilities, extra source of income etc. and observed that late Shri Babu Lal Gupta, Ex-GDS BPM, Hathdoli, expired on 31.3.2007 leaving behind the widow, Smt. Sita Devi Gupta, one married son Shri Suresh Chand Gupta, aged about 33 years, and two unmarried sons namely Shri Dinesh Chand Gupta, aged about 31 years, and Shri Vishnu Prasad Gupta (the applicant), aged about 29 years. Two elder sons are doing business at Hathdoli Village and Bonli Town. The CRC did not recommend case of the applicant for appointment on compassionate grounds because case of the applicant was not found most indigent as the family had received terminal benefits to the tune of Rs.125000/-

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and the family has owned a pukka house at Hathdoli and Bonli Town to live in and 3.2 Bigha Agriculture Land. The family has no liability of education of minor children and marriage of daughter. All three sons of the deceased employee are major and they cannot be said to be dependent as two of them are running business shops.

4. The respondents have not admitted the contents of para-4.3 of the OA. According to them, condition of the family is not indigent for the reasons already stated above. Besides, it was submitted in the reply that the family is not identified as BPL family in the village and it is also not true that the expenditure to maintain family was being incurred by late father of the applicant. All members of the family are major and earning income except the widow.

5. Learned counsel for the applicant invited attention to this Tribunal's order dated 30.4.2008, wherein objection of the applicant for deciding his case for grant of appointment on compassionate grounds by CRC by circulation of papers was considered. This Bench had decided to scrutinize the original CRC proceedings record to arrive at a decision. However, the respondents did not produce the relevant record before this Bench.

6. Learned counsel for the applicant also invited attention of the Bench to para 4.3 of the rejoinder, wherein it was submitted that the family is in indigent condition and also identified as BPL family as per certificate (Ann.A/6) of Gram Panchayat Hathdoli, Panchayat Samiti Bonli, District Sawai Madhopur.

7. I have heard learned counsel for the parties and perused the records. I find that the main objection in this application is regarding deciding applicant's case for compassionate appointment by the CRC by circulation of papers without personal meeting and

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thus the fact of penurious condition had not properly been appreciated by the CRC.

8. Secondly, the applicant has also produced a certificate from the Village Panchayat stating therein that Shri Suresh Chand Gupta son of late Shri Babu Lal Gupta is in the BPL list as per census of 2002.

9. After appreciation of facts of the case, I am of the opinion that in order to allay apprehension of the applicant that the fact of penurious condition could not be properly appreciated by the CRC held by circulation of papers, the respondents are directed that case of the applicant for compassionate appointment should be considered in the next CRC by personal meeting of all the members.

10. In the case of State of Haryana v. Ankur Gupta [JT 2003 (Supp.1) SC 96], the Apex Court observed that;

“As was observed in **State of Haryana v. Rani Devi** [JT 1996 (6) SC 646] it need not be pointed out that the claim of the person concerned for appointment on compassionate ground is based on the premise that he was dependent on the deceased employee. Strictly, this claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. That is why it is necessary for the authorities to frame rules, regulations or to issue such administrative orders which can stand the test of Articles 14 and 16. Appointment on compassionate ground cannot be claimed as a matter of right. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.”

11. It need not be pointed out that the claim of the person concerned for appointment on compassionate ground is based on the premise that he was dependent of the deceased employee. From perusal of the facts of the case, it appears that only Shri Vishnu Prasad Gupta (the applicant) was the dependent person on the

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deceased employee whose case is to be considered for compassionate appointment. The compassionate appointment cannot be offered to another earning member of the family of the deceased employee. Therefore, penurious condition is to be seen only on the case of applicant and his mother i.e. widow of the deceased employee. The Government has to exercise discretion after weighting various factors such as the financial condition of the family of the deceased employee, the assets and liabilities owned by the family, the retiral benefits received by the family etc.

12. In the case of **Umesh Kumar Nagpal v. State of Haryana** [JT 1994 (3) SC 525], it was held by the Apex Court, as under :

“As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. Once such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure 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 who may be eligible for such employment. **The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis.** The posts in class III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds.”

13. The respondents are directed to consider the case of the applicant for appointment on compassionate grounds in the next CRC as per the guidelines given in the OM dated 5.5.2003, para-3 of which reads as under :

“3. The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After three years, if Compassionate Appointment is not possible to be offered to the Applicant, his case will be finally closed, and will not be considered again.”

This case should be considered within a limit of three years, as stipulated in the OM dated 5.5.2003, subject to the condition of reappraisal of penurious condition of the applicant. Needless to say that such appointment on compassionate grounds is to be made only in accordance with rules, regulations or administrative instructions and taking into consideration the financial condition of the family of the deceased employee as held in the case of Umesh Kumar Nagpal (supra).

14. With these observations, the OA stands disposed of. No order as to costs.

  
(B.L.KHATRI)  
MEMBER (A)

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