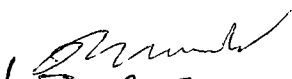



3/10/67

Mr. S. K. Singediya Counsel for applicant.

Heard the learned Counsel  
for the applicant.

For the reasons dictated  
separately, the OA is dismissed.

  
(J. P. Shukla)  
Administrative Member

  
(M. L. Chauhan)  
Judicial Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

Jaipur, the 03<sup>rd</sup> day of October, 2007

ORIGINAL APPLICATION NO. 259/2007

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER  
HON'BLE MR. J.P. SHUKLA, ADMINISTRATIVE MEMBER

Kaushlya D/o Late Shri Gordhan Lal Mali, wife of Shri Shivnath Saini, aged about 30 years, resident of Mohalla Bani, Ward No. 3, Khandela, Post Khandela, District Sikar. (D/o Late Shri Gordhan Lal Mali, who died while in service at Telecommunication Department, Neem Ka Thana, District Sikar as Class IV employee)

By Advocate: Mr. S.K. Singodiya

.....Applicant

Versus

1. Union of India through Secretary, Ministry of Communication, New Delhi.
2. The Pr. Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Postmaster General, Rajasthan Western Region, Jodhpur.
4. The Superintendent of Post Offices, Sikar, Sikar Division, Sikar.

By Advocate: -----

.....Respondents

**ORDER (ORAL)**

The applicant is the married daughter of Late Shri Gordhan Lal Mali, who while working on the post of Grade 'D' at

Post Office Neem Ka Thana died on 18.10.2005. At the time of death of deceased Shri Gordhan Lal Mali, family consists of widow and two married daughters. It is the case of the applicant that after the death of her father, she applied for compassionate appointment to the Superintendent of Post Offices. Initially the case of the applicant was not considered on the ground that the applicant is married and she is not eligible to get appointment. Copy of such communication dated 17.12.2005 has been placed on record as Annexure A/2. Thereafter, the applicant moved another application dated 17.01.2006 (Annexure A/3) for appointment on compassionate grounds under relaxation of rules. Pursuant to this application, respondent No. 4 sent a communication to the mother of the applicant to furnish certain documents, which the applicant submitted. It is further pleaded that thereafter the matter was placed before the Circle Selection Committee in its meeting held on 27.12.2006 and the Committee rejected the case of the applicant by making the following observations:-

1. The ex-official expired on 18.10.2005.
2. As per synopsis the ex-employee had left widow and two married daughters.
3. The family is getting family pension amounting to Rs.1913/- + D.R. PM.
4. The family has received terminal benefits to the tune of Rs.1,26,853/-
5. In assets, the family has own house to live in.

6. Married daughter is not dependant on the deceased."

2. The finding of the Circle Section Committee was conveyed to the applicant vide order dated 13.03.2007 (Annexure A/1). It is this order which is challenged in this Tribunal and the applicant has prayed that this impugned order dated 13.03.2007 may kindly be quashed and the respondents may be directed to give appointment to the applicant on compassionate grounds.

3. We have perused the impugned order Annexure A/1 and the submissions made by the applicant. We are of the view that the applicant is not entitled to any of the relief as prayed for. At the outset, it may be stated that the Scheme framed by the respondents provides for grant of compassionate appointment to a dependant of a employee who died in harness only where the deceased employee left his family in penury and without any means of livelihood. The Apex Court in number of decisions has held that the appointment on compassionate grounds is an exception carved out to the general rule that recruitment to public services is to be made in a transparent and accountable manner providing opportunity to all eligible

persons to compete and participate in the selection process. Such appointments are required to be made on the basis of open invitation of applications and merit. Dependants of employees who died in harness do not have any special or additional claim to public services other than the one conferred, if any, by the employer. The claim for compassionate appointment and the right, if any, is traceable only to the scheme, executive instructions, rules, etc. framed by the employer in the matter of providing employment on compassionate grounds. There is no right of whatsoever nature to claim compassionate appointment on any ground other than the one, if any, conferred by the employer by way of scheme or instructions as the case may be.

4. The respondents were required to consider the request of the applicant on compassionate grounds only in accordance with the scheme framed by them and no discretion is left for the authority to make compassionate appointment de-hors the scheme. Viewing the matter from legal position, as stated above, the question which left for our consideration is whether the respondents have committed any error in rejecting the claim of the applicant. The reason given by the Selection

Committee for rejecting the case of the applicant has been reproduced in earlier part of the judgment. One of the reasons given by the Circle Selection Committee is that applicant being married daughter cannot be said to be dependant on the deceased employee and before the death of the deceased employee the family consists of deceased and his widow. Other two daughters were married and were not the part of the family. It has come on record that the widow is getting family pension amounting to Rs.1913/- plus D.R. per month and thus the total emoluments which the widow was receiving comes not less than Rs.4000/- per month. Besides, the family has received terminal benefit to the tune of Rs.1,26,853/-. Thus according to us, the authority has not committed any error. Terminal benefits, monthly family income and family pension paid by the respondents to the widow was taken into consideration for the purpose of deciding as to whether the deceased employee left his family in penury and without any means of livelihood. In fact, the scheme framed by the Government mandate the authority to take those factors into considerations. Further, it is not open for us to interfere with the findings of the competent authority where the competent authority after taking into consideration all the relevant factors

including financial condition of the deceased employee finds that the family was not in penury and without any means of livelihood. The limited scope for interference in such matters is as to whether the decision making process in rejecting the application of the dependant of the deceased employee for compassionate appointment was vitiated and whether the decision of the competent authority in rejecting the application was not in conformity with the scheme framed by the respondents. It is not case before us that the impugned order passed by the competent authority was not in accordance with the scheme. It is not the case whether the widow, who is the only dependant of the deceased employee, was without any means of livelihood and was unable to make both ends of meal. Thus according to us the application is bereft of merit. The Apex Court in the case of **G.M. (D&PB) vs. Kunti Tiwari** reported in 2004(7) SCC 271 held that the High Court cannot dilute the criterion of penury to one of 'not very well-to-do'. The view taken by the Division Bench of the High Court may amount to varying the existing scheme framed by the respondents. Such a course is impermissible in law.

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6. Since there is no infirmity in the impugned order, we are not inclined to interfere with the matter and the OA filed by the applicant is devoid of any merit and is accordingly dismissed at admission stage itself.

  
**(J.P. SHUKLA)**  
**MEMBER (A)**

  
**(M.L. CHAUHAN)**  
**MEMBER (J)**

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