

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 23rd day of September, 2010

O.A. No. 155/2009

CORAM:

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

Ajit Meena
s/o Shri Anirudh Meena,
r/o Ramchander Ki Dhani,
Bandikui, District Dausa.

... Applicant

(By Advocate: Shri Amit Mathur)

Versus

1. Union of India
through its Secretary,
Department of Posts,
Dak Bhawan,
New Delhi.

2. The Superintendent,
Department of Posts,
Jaipur

... Respondents

(By Advocate: Shri Gaurav Jain)

ORDER (ORAL)

The applicant has filed this OA with prayer that direction may be given to the respondents to consider case of the applicant for compassionate appointment.

2. Briefly stated facts of the case are that Shri Anirudh Meena while working as Group-D in Bandikui RS Post Office expired on 14.9.1998. After death of Shri Anirudh Meena, applicant applied for

appointment as Group-D on compassionate ground vide application dated 6.11.1998. Since date of birth of the applicant is 1.3.1987 and not attained age of majority i.e. 18 years on the date of application, he was informed vide communication dated 12.11.1998 that his application would be considered at the appropriate time. Subsequently, the applicant made application dated 31.3.2005 on attaining age of majority and his case was forwarded to the Circle Selection Committee (CSC) for consideration of appointment on compassionate grounds against Group-D post. However, case of the applicant for compassionate appointment was rejected by the CSC on 27.12.2006 by making following observations:-

- (i) The ex-official expired on 14.9.1998.
- (ii) As per synopsis, the ex-official has left behind him widow, one married son and two married daughters.
- (iii) As per education, qualification the applicant was eligible for appointment on compassionate ground on the post of Gr. D TC.
- (iv) The family is getting family pension amounting to Rs. 1640/- + D.R. per month.
- (v) The family has received terminal benefits to the tune of Rs. 91,941/-
- (vi) In assets, the family has own house to live in.
- (vii) The case is more than 5 years old.
- (viii) The family has landed property 1.5 Bigha land.

As per the case set-up by the applicant in the OA no action was taken by the respondents on the application submitted by the applicant nor he was informed why his candidature was not considered and also about the status of his application. However, the respondents in the reply have categorically stated that the

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applicant was intimated about rejection of his application for appointment as Group-D on compassionate ground vide letter No.B2-62/23.2.2005 dated 15.1.2007 (Divisional Office registered letter No.358 dated 15.1.2007) (Ann.R/10).

3. In this case reply was filed by the respondents on 18.11.2009. Despite repeated opportunity, no rejoinder has been filed by the applicant.

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

5. I am of the view that the applicant is not entitled to any relief for more than one reason. Firstly, case of the applicant for compassionate appointment was rejected by the CSC in its meeting held on 27.12.2006 and the observations of the CSC was communicated to the applicant by registered post vide letter dated 15.1.2007. The applicant has not challenged validity of the order dated 15.1.2007 in this OA as such, the applicant is not entitled to any relief.

6. That apart, the applicant is also not entitled to any relief on the ground that father of the applicant expired on 14.9.1998 and family of the deceased survived for a considerable period w.e.f. 14.9.98 till 15.1.2007 when the applicant was informed about rejection of his case. As can be seen from the reasoning given by the CSC, the family consists of only widow and the applicant who is major, the family is getting family pension amounting to Rs. 1640 + DR per month and also own house to live in and landed property of 1.5 bigha. Thus, the applicant being major can contribute to the

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income of the family and there is no liability in the nature of education of minor children or marriage of daughter. Thus, in view of the reasoning given by the respondents, it cannot be said that the finding so arrived by the CSC is perverse and arbitrary.

7. Further, appointment on compassionate ground cannot be granted after a lapse of reasonable period. Law on this point is no longer res-integra. The Apex Court in the case of Haryana State Electricity Board vs. Naresh Tanwar and Anr., 1996 SCC (L&S) 816 in Para-9 has made the following observations:-

"9. It has been indicated in the decision of Umesh Kumar Nagpal that compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad case, it has been also indicated that the very object of appointment of dependent of deceased employee who dies in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years." (emphasis supplied).

8. In State of U.P. vs. Paras Nath, 1998 SCC (L&S) 570, the effect of long delay in applying for compassionate appointment was considered. That was a case where the deceased employee left behind two years old son. The application for compassionate appointment was made after a period of 17 years. However, no application was made by other family members. The Apex Court while setting aside the judgment given by the High Court in para-5 has made the following observations:-

"5. The purpose of providing employment to a dependant of a government servant dying in harness in preference to

anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased is made after a long period of time such as seventeen years in the present case."

9. In Sanjay Kumar vs. State of Bihar, 2000 SCC (L&S) 895 the Apex Court has observed that there cannot be reservation to a vacancy till such time as the petitioner becomes major after a number of years and the very basis of compassionate appointment is to see that the family gets immediate relief and in para 3 made following observations:-

"3. We are unable to agree with the submissions of the learned Senior Counsel for the petitioner. This Court has held in a number of cases that 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. It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.1988, the petitioner was a minor and was not eligible for appointment. This is conceded by the petition. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family get immediate relief (emphasis supplied).

10. In Haryana State Electricity Board vs. Krishna Devi, 2003 SCC (L&S) 248, the Apex Court in para 7 held as under:-

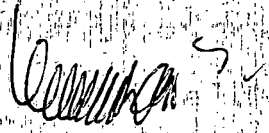
"7. As the application for employment of her son on compassionate ground was made by the respondent after eight years of death of her husband, we are of the opinion that it was not to meet the immediate financial need of the family. The High Court did not consider the position of the law and allowed the writ petition relying on an earlier decision of the High Court."

11. In State of J&K vs. Sajad Ahmed Mir, 2006 SCC (L&S) 1195 in para-11 has made the following observations:-

"11. ... Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say 'goodbye' to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

12. Thus, from the principle as laid down by the Apex Court as noticed above, it is evident that compassionate appointment is not a vested right which can be exercise at any time in future. The compassionate appointment cannot be claimed and offered after a lapse of time and after the crisis is over. The very fact that family has survived for a considerable long period apparently shows that family has pulled on without any difficulty. Thus, according to me, the applicant is not entitled to any relief on this basis also.

13. For the foregoing reasons, the OA being bereft of merit is dismissed with no order as to costs.


(M.L. CHAUHAN)
Judl. Member

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