

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 08th day of March, 2011

ORIGINAL APPLICATION NO. 228/2010

CORAM

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

Narottam Lal Sharma son of Late Shri Ram Dayal Sharma by caste Sharma, aged about 39 years, resident of Village and Post Chauragaon. Thesil Sapotra, District Karoli.

.....Applicant

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

VERSUS

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

.....Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The applicant has filed this OA against the impugned notification dated 03.02.2010 (Annexure A/1) whereby the respondents have decided to fill up the post of EDBPM, Chauragaon. The grievance of the applicant is that the said post should be filled in by giving him appointment on compassionate grounds. At this stage, relevant facts may be noticed. Undisputed facts are that the father of the applicant, Shri Ram Dayal Sharma, while working as GDSBPM, Chauragaon with effect from 04.09.1956 expired on 12.10.1983. At the time of death of Late Shri Ram Dayal Sharma, wife of the deceased employee did not applied for compassionate appointment, as such the said post was filled in by appointing one Shri Parmanand Sharma with effect from

23.05.1984. Admittedly, when the father of the applicant died, applicant was minor. It may be relevant to state here that as per the stand taken by the respondents in the reply, the aforesaid post which was occupied by Shri Parmanand Sharma again fell vacant due to dismissal of Shri Parmanand Sharma and one Shri Om Prakash was appointed. It is further stated by the respondents in the reply that on account of regular selection of Shri Om Prakash on the post of Postman, the post of GDSBPM, Chauragaon again fell vacant and in order to fill the aforesaid vacant post, the respondents have issued the notification dated 03.02.2010 (Annexure A/1) inviting applications from all the eligible candidates for the post of GDSBPM, Chauragaon. The applicant has stated that he has submitted an application dated 04.11.2009 (Annexure A/2) to the respondents for giving him compassionate appointment but according to the respondents, the applicant has never submitted any so called application dated 04.11.2009. It is on the basis of these facts, the applicant has stated that the post which was advertised vide impugned order dated 03.02.2010 (Annexure A/1) may be filled in by giving him appointment on compassionate grounds instead of filling the same from the open market by way of advertisement.

2. Notice of this application was given to the respondents. The respondents have filed their reply. The facts, as stated above, have not been controverted. The respondents have categorically stated that as per provisions contained under Rule (1) of Section X of GDS (Conduct and Employment) Rules, 2001 (Annexure R/1), a suitable job in ED cadre may be offered to one dependant of an ED official who dies while in service leaving indigent circumstances subject to the

conditions applicable to regular employee who die while in service or retire on invalid pension such employment to the dependant should, however, be give only in very hard and exceptional cases. The respondents have further stated that such appointment on compassionate grounds cannot be given to the applicant after considerable lapse of about 27 years.

3. I have heard the learned counsel for the parties and have gone through the material placed on record. Admittedly, the father of the applicant died on 12.10.1983. At that time, the applicant was minor, as such not eligible for compassionate appointment. It is also borne out from the material placed on record that at the time of the death of deceased employee, his wife had not applied for compassionate appointment. As per the averment made by the applicant himself an application for compassionate appointment was moved by him for the first time on 04.11.2009 after a lapse of about 26 years, although the respondents have stated that no such application was received by them. Thus at this belated stage, the request of the applicant for compassionate appointment cannot be considered. It may be relevant to mention here that the Department of Posts vide its letter No. 17-85/93-ED & Trg. dated 02.02.1994 has issued the guide lines regarding the scheme of compassionate appointment applicable to Postal ED Agents. The said Scheme stipulates that the ED posts are isolated and well spread out. It is, therefore, necessary that a vacancy caused due to death of an ED Agents is filled up by appointing one of his/her dependant/near relatives on compassionate grounds. It is further stated that in the absence of vacancy at village post, compassionate appointment can be given in any other post office in

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the vicinity/neighbourhood or his/her place of residence. Thus the appointment on compassionate grounds can be given to the dependant of the deceased only in respect of the post which the deceased employee was holding prior to his death i.e. on the post of EDBPM, Chauragaon. Admittedly, in terms of the aforesaid instructions, right to fill up the post by way of compassionate ground has accrued in the year 1983. Since none of the family of the deceased applied for appointment, as such said post was filled in by appointing Shri Parmanand Sharma with effect from 23.05.1984. Thus the claim of the applicant for compassionate appointment cannot be considered at this belated stage. I see no infirmity if the respondents have taken steps to fill up the aforesaid post from the open market which is in conformity with the provisions contained under Articles 14 & 16 of the Constitution of India. Further the applicant has got no legal right to claim compassionate appointment after a lapse of about 27 years when the family had already tide over from the sudden crisis caused due to death of the deceased employee. Accordingly, the OA is bereft of merit and is accordingly dismissed with no order as to costs.

4. In view of dismissal of the OA, no order is required to be passed on MA No. 139/2010 for condonation of delay, which is also dismissed.


(M.L. CHAUHAN)
MEMBER (J)

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