

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

16

ORDER SHEET

ORDERS OF THE TRIBUNAL

19.07.2012

OA No. 131/2011

Mr. C.B. Sharma, Counsel for applicant.

Mr. Mukesh Agarwal, Counsel for respondents.

Heard learned counsel for the parties.

The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

Jaipur, the 19th day of July, 2012

ORIGINAL APPLICATION No. 131/2011

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Govind Prasad son of Late Shri Laxman Prasad aged about 28 years, resident of Village and Post Bahaj (Deeg H.O.), District Bharatpur. Aspirant for appointment on compassionate grounds on the post of Gramin Dak Sevak, Branch Dak Sevak, Branch Post Office Bahaj (Deeg H.O.), Bharatpur Postal Division, Bharatpur.

... Applicant

(By Advocate : Mr. C.B. Sharma)

Versus

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent of Post Offices, Bharatpur Postal Division, Bharatpur.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That the entire record relating to the 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, Bahaj Branch Post Office against vacant post by quashing letter dated 19.10.2010 (Annexure A/1) with all consequential benefits.
- (ii) That the respondents may be directed not to fill up the pot of Gramin Dak Sevak, Bahaj (Deeg H.O.) without further consideration of the applicant.
- (iii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.

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(iv) That the cost of this application may be awarded."

2. Learned counsel for the applicant submitted that this application has been made against the letter dated 19.10.2010 issued on behalf of respondent no. 2 and communicated by respondent no. 3 by which it has been informed to the applicant that his case for appointment on compassionate grounds has been rejected after considering by the Circle Relaxation Committee ((CRC) on the ground that the family is not in indigent condition inspite of the fact that no earning member is available in the family and applicant is also unmarried and mother of the applicant is facing constant illness and is also blind.

3. He further submitted that the applicant is the son of Late Shri Laxman Prasad, who was holding the post of Gramin Dak Sevak, Mail Delivery, Bahaj (Deeg H.O.), District Bharatpur. The father of the applicant expired on 01.03.2010. That the late father of the applicant left behind following family members:-

- (i) Smt. Gomti Devi – widow
- (ii) Shri Hari Om Sharma- Son – Married having wife and two children, managing himself and his family separately.
- (iii) Shri Govind Prasad – Son (applicant) unmarried.

The father of the applicant died while working on the post of Mail Carrier (Gramin Dak Sevak) and was in receipt of about Rs.4000/- per month and no other source of income was in existence except some Agricultural land and father of the applicant any how manage his family by the earning from respondents department and death of the father change the status of family from lower class to a family living below the poverty line. However, respondent department extended

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benefits of Rs.1,33,576/- by way of ex-gratia and insurance amount, as pension or other benefits are not available to the staff working to Gramin Dak Sevak.

4. He further argued that the financial benefits extended to the applicant by way of ex-gratia and insurance amount has been spent on the matrimonial functions and illness of the mother. The applicant and his mother requested to the respondents to provide appointment on compassionate ground to the applicant. The applicant and his mother have nothing in the shape of moveable and immoveable property except a small house and some agricultural land. The condition of the family is indigent because no earning is available from the agricultural land and applicant is also dependant on the family. The family is not in a position to meet out expenditure to maintain family as being maintained by his late father. He further argued that the condition of the applicant's family being indigent, he is entitled for appointment on compassionate grounds and his request for appointment on compassionate ground has been arbitrarily turned down by the respondents. He also referred to the judgment of the Hon'ble Supreme Court in the case of **Govind Prasad Verma vs. Life Insurance Corporation of India & Others**, reported in 2005 SCC (L&S) 590. Therefore, he submitted that the OA be allowed and the respondents be directed to provide appointment on compassionate grounds to the applicant to the post of Gramin Dak Sevak, Bahaj Branch Post Office against vacant post by quashing letter dated 19.10.2010.

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5. On the contrary, learned counsel for the respondents submitted that Shri Laxman Prasad, father of the applicant, while working as Gramin Dak Sevak Mail Deliverer (GDSMD) Bahaj (Deeg), expired on 01.03.2010, just before one month from his superannuation i.e. 01.04.2010. All the benefits which were payable to him on his retirement have been paid to his widow. An amount of Rs.1,33,576/- has been paid to her for all terminal benefits. The proposal for appointment of the applicant on compassionate grounds was placed before the Circle Relaxation Committee for consideration. The CRC considered the case of the applicant as per the instructions contained in DOPT OM NO. 14014/6/94-Estt. (D) dated 09.10.1998 and subsequent instructions/OM's issued on the subject by DOPT. The Committee observed that Ex-GDSMD expired on 01.03.2010, only just before one month of his superannuation which was due on 01.04.2010, leaving behind widow, one married son (who is employed), one unmarried son i.e. the applicant aged 28 years, major and able to earn money by doing some job to assist his family and also three married daughters, who are living with their husbands and cannot said to be dependants of the deceased employee. The family has own house and 6 Bigha and 6 Biswa Agriculture land from which they are having income of Rs.2083/- per month.

6. The Committee also observed that the total amount of Rs.1,33,576/- has been paid to the widow of the deceased by way of terminal benefits. The CRC after carrying objective assessment of the financial condition of the family not found the family in indigent condition and, therefore, not recommended the case of the applicant

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for appointment on compassionate grounds, which was duly communicated to the applicant vide impugned order dated 19.10.2010 (Annexure A/1). He further submitted that the family has no liability such as education of minor children or marriage of unmarried daughter. He referred to the judgment of the Hon'ble Supreme Court in the case of **Life Insurance Corporation of India vs. Mrs. Asha Ram Chandra Amedkar & Another**, JT 1994 (2) SC 183. He further argued that appointment on compassionate ground is provided where the family is in indigent condition and needed immediate assistance in order to relieve economic distress arises due to death of employee. In this case since the family of the applicant has not been found as indigent, therefore, the respondents have not found the case of the applicant as fit for providing appointment on compassionate grounds to the applicant. He further submitted that the OA is devoid of merit and it should be dismissed with costs.

7. Heard the learned counsel for the parties and perused the relevant documents on record. Learned counsel for the respondents was directed by this Tribunal on 22.05.2012 to produce the copy of the minutes of the CRC held on 08.10.2010. Learned counsel for the respondents today submitted a copy of the minutes of the CRC held on 08.10.2010, which was also shown to the learned counsel for the applicant. It is not disputed that the father of the applicant was in employment of the respondents who died while in service. The case of the applicant for appointment on compassionate grounds was considered by the respondents. According to the respondents, the family of the applicant has a house consisting of three rooms with

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Verandaha. The family also has 6 Bighas and 6 Biswa agricultural land, from which getting an income of Rs.2083/- per month. Moreover, the widow of the deceased was paid an amount of Rs.1,33,576/- as terminal benefits. There is no liability of education of either the daughter or son. The deceased had three daughters who all are married. There is one elder son who is living separately with the family. Thus the CRC on the basis of the facts did not find the condition of the family of the applicant as indigent.

8. Learned counsel for the applicant referred to the judgment of the Hon'ble Supreme Court in the case of **Govind Prakash Verma vs. Life Insurance Corporation of India & Others**, 2005 SCC (L&S) 590. In this judgment, the Hon'ble Supreme Court in Para No. 6 has held as under:-

"6.The respondents have wrongly refused compassionate appointment to the appellant. The inference of gainful employment of the elder brother could not be acted upon. The terminal benefits received by the widow and the family pension could not be taken into account."

The ratio laid down by the Hon'ble Supreme Court in this case is not applicable under the facts & circumstances of the present OA. Here the respondents have not refused appointment on compassionate grounds only on the ground of gainful employment of the elder brother or on the ground that since the family has received the terminal benefits, the applicant is not entitled to appointment on compassionate ground. The respondents have taken an overall view of the financial condition of the family of the deceased such as liabilities of the family, the income, assets of the family and then they have come to the conclusion that the family of the deceased is not in indigent condition.

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9. Therefore, on the basis of the above facts, I do not find any infirmity in the decision taken by the respondents vide letter dated 19.10.2010 (Annexure A/1). The applicant has failed to make out any case for the interference of this Tribunal.

10. Consequently, the OA being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

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