

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

12

ORDERS OF THE TRIBUNAL

11.09.2012

OA No. 267/2011

Mr. Amit Mathur, 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 11th day of September, 2012

ORGINAL APPLICATION No. 267/2011

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Mahesh Kumar Meena son of Late Shri Ram Chandra Meena, aged about 23 years, resident of Village Lakhani, via Ringas, Sri Madhopur, District Sikar.

... Applicant
(By Advocate : Mr. Amit Mathur)

Versus

1. Union of India through Secretary, Ministry of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, Department of Post, Rajasthan Circle, Near M.I. Road, Jaipur.

... Respondents
(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

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

"It is, therefore, humbly and respectfully prayed that this petition of the applicant may kindly be allowed and the order dated 30.08.2010 may kindly be quashed and set aside. The respondents may be directed to again consider the case of the applicant on compassionate ground and further give him appointment.

Any other appropriate relief which this Hon'ble Tribunal deems fit in the interest of justice in the facts and circumstances of the case in favour of the petitioner may kindly be passed."

2. Learned counsel for the applicant submitted that father of the applicant, Shri Ram Chandra Meena, was working as Group

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'D' employee in the office of the respondents. He died on 29.04.1999 while in service. He left behind his wife and four minor children which includes 3 sons in the age of less than 12 years and one daughter. At the time of death, the deceased was not having any other source of earning.

3. The applicants belongs to ST category. He is 8th class pass. The applicant applied for appointment on compassionate grounds. The family circumstances of the applicant are indigent in nature. None of the family member is earning. Only the mother of the applicant is getting family pension. All other brothers of the applicant were very young when their father expired. The applicant and his family have Kaccha house in the village and having only 1.7 bigha of land. There is no earning from that land. After the death of the father of the applicant, only Rs.44,270/- were received as terminal benefits.

4. Learned counsel for the applicant further submitted that the committee constituted for considering cases for appointment on compassionate grounds considered the case of the applicant but rejected the same on the ground that the family circumstances of the applicant are not indigent. A copy of the said order has been annexed as Annexure A/1. Learned counsel for the applicant submitted that this order passed by the respondents is illegal, arbitrary and unjust. The Committee did not consider that at the time of death of father of the applicant all children were minor and there was no other source

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of earning except the family pension given to the mother of the applicant. The respondents have considered the cost of the land and house for rejecting the case of the applicant but they did not consider the fact that there is no income either from the land or from the house. The sister of the applicant was also unmarried when the father of the applicant died and this fact is also not been considered by the Committee. Therefore, he argued that the respondents may be directed to reconsider the case of the applicant for appointment on compassionate grounds.

5. On the contrary, learned counsel for the respondents argued that proposal of the applicant for appointment on compassionate ground was received in the office of the respondents on 09.07.2009. The case of the applicant for appointment on compassionate grounds was considered by the Circle Relaxation Committee on 01.07.2010 in the light of the instructions issued by the DOPT OM dated 03.12.1999, 20.12.1999, 28.12.1999 and 24.11.2000 and vacancy position of the cadre under the quota of compassionate appointment. The Committee after making objective assessment of the financial condition of the family and also this fact that the case is more than 10 years old did not find the family in indigent condition and the case of the applicant for compassionate appointment was rejected. The decision of the CRC was conveyed to the applicant by the respondents vide letter dated 30.08.2010 (Annexure A/1):

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6. Learned counsel for the respondents further submitted that the family of the deceased had received total terminal benefits of Rs.44,270/- . The family is living in their own house whose value is approximately Rs.50,000/- and they own 1.87 Bigha Barani Agricultural land worth Rs.1.35 lacs. The deceased employee did not leave liability of marriage of daughter. Since the case of the applicant was more than 10 years old, therefore, the respondents rejected the case of the applicant for appointment on compassionate grounds. To support his averments, he referred to Para No. 11 & 12 of the judgment of the Hon'ble Supreme Court in the case of **Santosh Kumar Dubey vs. State of U.P.**, 2009 (6) SCC 481, which are quoted below:-

"11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service."

7. He also drew my attention to Para No. 12 of the order of this Tribunal in the case of **Ajit Meena vs. Union of India &**

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Others (OA No. 155/2009 decided on 23.09.2010), which reads as under:-

"12. Thus, from the principles as laid down by the Apex Court as noticed above, it is evident that compassionate appointment is not a vested right which can be exercised 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."

8. Thus the learned counsel for the respondents argued that the ratio decided by the Hon'ble Supreme Court in the case of **Santosh Kumar Dubey vs. State of U.P.**, 2009 (6) SCC 481, and by this Tribunal in the case of **Ajit Meena vs. Union of India & Others** (OA No. 155/2009 decided on 23.09.2010) is squarely applicable in the facts and circumstances of the present OA and, therefore, this OA has no merit and it should be dismissed with costs.

9. Heard the learned counsel for the parties and perused the documents on record. The learned counsel for the applicant drew my attention to Annexure R/2, which is an application of the applicant dated 04.06.2007 for appointment on compassionate grounds. Therefore, he argued that the averment of the respondents that the applicant applied for appointment on compassionate grounds on 09.07.2009 is not correct. According to the learned counsel for the applicant, the applicant applied for appointment on compassionate grounds

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for the first time in June, 2007. Even if the averment of the learned counsel for the applicant are admitted, it is not disputed that the applicant applied for appointment on compassionate grounds for the first time in June, 2007 that is after almost eight years of the death of his father. The respondents considered the case of the applicant and have come to the conclusion that the family of the applicant is not indigent. In their communication dated 30.08.2010 (Annexure A/1), they have clearly stated the reasons, why the family of the applicant has not been considered as indigent. The widow of the deceased is getting family pension to the tune of Rs.3500/- plus DR per month, the family of the deceased had received Rs.44,270/- as terminal benefits, the family is living in their own house whose value is approximately is Rs.50,000/- and they own 1.87 Bigha Barani Agricultural land of Rs.1.53 lacs. Besides this, there is no liability of marriage of daughter. Moreover, the present case is more than 10 years old.

10. I have carefully gone through the judgment of the Hon'ble Supreme Court in the case of **Santosh Kumar Dubey vs. State of U.P.**, 2009 (6) SCC 481, and the order of this Tribunal in the case of **Ajit Meena vs. Union of India & Others** (OA No. 155/2009 decided on 23.09.2010) and I am of the opinion that the ratio decided by the Hon'ble Supreme Court and by this Tribunal in these cases are squarely applicable under the facts & circumstances of the present case. Moreover, the Hon'ble Supreme Court in the case of **Umesh**

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Kumar Nagpal vs. State of Haryana, JT 1994 (3) SC 525

has held that:-

"The compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

11. Thus from the ratio laid down by the Apex Court, referred to above, it is evident that compassionate appointment is not a vested right, which can be exercised at any time in future. The compassionate appointment cannot be claimed and offered after a lapse of time and after the crisis is over. It is a fact that the family has survived for a considerable long period after the death of the father of the applicant. Therefore, looking from any angle, the applicant is not entitled for any relief from this Tribunal.

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

Anil Kumar
(Anil Kumar)
Member (A)

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