

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH**

**OA. 060/00394/14
(Reserved on 12.02.2015)**

Chandigarh, this the 9th day of March, 2015

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**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)**

Gulshan Jerath, daughter of Late Sh. Balbir Kumar Jerath, Ex-Senior Accountant, Office of Director of Accounts (Postal), Jalandhar age 36-1/2 years r/o House No. 241/22, near Kotu Chowk, Kapurthala.

.....Applicant

BY ADVOCATE: **MR. BALRAJ BHASKAR**

VERSUS

1. Union of India through Secretary to the Government of India, Ministry of Communication, Department of Posts, New Delhi.
2. Deputy Director General (Postal A/cs), Office of the Director General of Posts, Parliament Street, New Delhi.
3. Chief Post Master General, Punjab Circle, Chandigarh.
4. Director of Accounts (Postal), (Kapurthala & Jalandhar)-cum-Director Finance (Punjab), Office of the Chief Post Master General, Punjab Circle, Chandigarh.

.....Respondents

BY ADVOCATE: **MR. DARSHAN GUPTA PROXY COUNSEL
FOR MS. MOHINDER GUPTA**

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ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- "(i) That order by respondents for rejecting the claim of applicant for compassionate appointment which is not only illegal but also not sustainable in the eyes of law should be set aside and the fresh application being made by the applicant as on 23.01.2012 in which reply is still awaited and the applicant has given brief statement regarding her income and expenses, which clearly shows that the family of applicant is unable to purchase respectable living, should be considered on humanitarian grounds.
- (ii) That directions may kindly be issued to the respondents No. 4 & 5 to consider the name of the applicant on compassionate grounds for a post eligible on the basis of her educational qualification and offer her a suitable job so as to earn the livelihood for herself and also for her mentally retarded 20 years old younger brother."

2. The background of the matter is that the applicant is the daughter of one Sh. Balbir Kumar Jerath, who was serving as a Senior Accountant in the office of respondent No. 4, and expired on 9.9.2009 while in service. The applicant being the eldest child, applied to respondent No. 5 for appointment on compassionate grounds vide application dated 21.1.2010 (Annexures A-7 and A-8) as she had to take care of her mentally retarded mother and younger brother. However, the application was rejected through order dated 12.5.2010 (Annexure A-1).

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The applicant thereafter submitted several representations, but to no avail.

Hence this OA.

3. In the grounds for relief, it has been stated that the main purpose of compassionate appointment is to mitigate hardship caused due to the death of bread earner in family. The object is to enable the family to get over sudden financial crisis and appointments on compassionate grounds are to be made out of purely humanitarian considerations strictly as per rules, regulations or administrative instructions. The following case law has been cited in this regard:-

- (a) NHPC Vs. Nanak Chand A.I.R. 2005 SC 106.
- (b) Umesh Kumar Vs. State of Haryana, 1994(4) SCC-1396
- (c) State of UP Vs. Paras Nath AIR 1998 (SC) 2512.

Since it is to redeem the family in distress, a compassionate appointment should be provided immediately.

4. In the counter reply filed on behalf of the respondents, it has been stated that the father of the applicant, Sh. Balbir Kumar Jerath, expired while in service after serving for 37 years, 4 months and ten days. He left behind his widow, a daughter (the applicant) and a son and terminal benefits of Rs. 11.82 lakh had been released to the family. The widow of the deceased employee was sanctioned family pension of Rs. 10515 p.m. + D.A. at prevailing rates. Smt. Veena Jerath, wife of late Sh.

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Balbir Kumar Jerath died on 28.6.2013 and the family pension @ Rs. 21330 was now being paid to his son Sh. Raj Kiran Jerath who is mentally retarded. The pension is being paid through the applicant who is the guardian of Sh. Raj Kiran Jerath and the same is likely to be paid during the life time of Sh. Raj Kiran Jerath.

5. It has further been stated that the DOPT issued instructions regarding Compassionate Appointments vide letter No. 14014/3/2005-Estt.(D) dated 14.06.2006 stating that while the existing ceiling of 5% for compassionate appointment may not be modified, but the 5% ceiling may be calculated on the basis of total direct recruitment vacancies of Group 'C' and Group 'D' posts (excluding technical posts) that have arisen in the year. The Circle Relaxation Committee of the respondent department which met on 11.04.2011 considered 26 cases including that of the applicant for appointment on compassionate grounds. The applicant obtained 43 points on the 100 point scale and hence her case was not found to be so indigent as compared to those which were either approved or recommended for consideration and decision of the High Powered Committee at Directorate level. The minutes of the meeting of the CRC and the comparative statements have been annexed as Annexures R-1 and R-2 respectively. The decision of

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the High Powered Committee rejecting the claim of the applicant for appointment on compassionate grounds had been conveyed to the mother of the applicant vide letter No. Admn./A-1/F-10/Veena Jairath/637 dated 12.05.2011 (Annexure A-1) and the applicant had also been informed in this regard in September, 2011 and February, 2012 (Annexures A-2 & A-3).

6. Arguments advanced by the learned counsel for the parties were heard when learned counsel for the applicant admitted that the family was getting the family pension on monthly basis. He pressed that the applicant's case be considered purely on humanitarian grounds so that the applicant who was an unmarried woman aged 36 years, could get employment and she would then be able to maintain herself and her mentally retarded brother. The learned counsel also referred to the case law cited in the OA in this regard.

7. Learned counsel for the respondents stated that the claim of the applicant for appointment on compassionate grounds had been considered twice by the Circle Relaxation Committee and since she scored only 43 points on the 100 point scale, her case could not be considered for appointment on compassionate grounds. As _____

8. We have given our thoughtful consideration to the matter. From the material on record, it is clear that the claim of the applicant for appointment on compassionate grounds has been considered as per the guidelines and she scored only 43 points on the 100 point scale. Since the cases where a positive recommendation had been made for appointment, the points scored were much higher, no injustice has been done to the applicant. The employment on compassionate grounds is not a matter of right as has been held in Union of India Vs. Shashank Goswami (2012) 11 SCC 307. The applicant and her brother have reasonable income as they are getting family pension and there is also some accrual on account of the interest on terminal benefits that were received by the family at the time of the death of the ex-employee. Hence, there is no merit in the OA and the same is rejected. No costs.


(RAJWANT SANDHU)
MEMBER(A)


(SANJEEV KAUSHIK)
MEMBER(J)

Dated: 9th March, 2015.
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