

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORGINAL APPLICATION NO.200/00154/2016

Jabalpur, this Friday, the 16th day of August, 2019

HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER

Sudhir Sharma, S/o late Devkinandan Sharma, DOB: 26.12.1980, R/o 322, Delight Compound, Civil Lines, Jabalpur (MP) -482001

- APPLICANT

(By Advocate – Shri Vijay Tripathi)

Versus

1. Union of India through its Secretary, Ministry of Communication & IT, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001

2. Chief Post Master General, M.P.Circle, Hoshangabad Road, Bhopal-462012 (M.P.).

3. Superintendent of Post Offices, Chhindwara Division, Chhindwara-480001 (M.P.)

4. Ms. Manisha Sharma, D/o Devkinandan Sharma, 1140, Yadav Colony, Near Gajanand Manir, Jabalpur(MP)-482001

- RESPONDENTS

(By Advocate – Shri D.S.Baghel)

(Date of reserving the order:08.08.20019)

ORDER

The applicant is aggrieved by non-consideration of his claim for compassionate appointment.

2. The brief facts of the case, as submitted by the applicant are as follows:-

2.1 His father while working as Assistant Superintendent of Post Offices died in harness on 04.12.2005.

2.2 His father, during his life time solemnized two marriages. The name of the first wife of his father is Smt. Sushma Sharma and out of their wedlock Smt. Sushma Sharma has delivered two daughters, namely, Smt. Archana Sharma and Manisha Sharma. The second wife of his father is Smt. Maya Sharma, who has delivered two daughters and two sons, namely, Neetu Sharma, Sudhir Sharma, Rita Sharma and Sandeep Sharma.

2.3 Both the daughters of the first wife of his father, namely, Smt. Archana Sharma and Manisha Sharma have been married.

2.4 After the death of his father, his second wife Smt. Maya Sharma had filed an Original Application No.180/2007 claiming retiral dues and pension, which was disposed of vide order dated 11.02.2009 (Annexure A-3) with a direction to regulate family pension as well as DCRG in accordance with rules and law laid down by Hon'ble Supreme Court in the matters of **Rameshwari Devi Vs. State of Bihar & others**, AIR 2000 SC 735.

2.5 In compliance to the above directions, the respondents issued order dated 20.07.2009 distributing the amount of DCRG amongst the first wife and all the children including the children of the second wife.

2.6 Thereafter, he submitted his application for compassionate appointment (Annexure A-4).

2.7 However, vide impugned letter dated 04.09.2014 (Annexure A-1)

he and Ms. Manisha Sharma, daughter of first wife, were directed to obtain order from the court about their entitlement for compassionate appointment. Again vide letter dated 24.08.2015 (Annexure A-2) he was directed to obtain order from the court about his entitlement.

2.8 The first wife of his father is already receiving family pension whereas the second wife is not getting any pension. Both the daughters of the first wife are already married, whereas the second wife and her children are facing great financial hardship. He is residing in a rented house along with his mother, brother and sisters. He has no other source of livelihood.

3. The applicant has, therefore, prayed for the following relief:

“(8.1) Summon the entire relevant record from the possession of respondents for its kind perusal.

(8.2) Quash and set aside the orders dated 4.9.2014 and 24.8.2015 Annexure A/1 and Annexure A-2.

(8.3) Direct the respondents to consider the case of the applicant for compassionate appointment forthwith and if he found suitable he be appointed on a suitable post with all consequential benefits;

(8.4) Any other order/orders, direction/directions may also be passed.

(8.5) Award cost of the litigation to the applicant.”.

4. The official respondents, in their reply, have submitted as under:-

4.1 The name of first wife is wrongly shown by the applicant as Smt.

Sushma Sharma instead of Smt. Sushila Sharma.

4.2 The case of compassionate appointment in place of deceased-employee is found disputed. It is not possible for the respondent to give compassionate appointment to both the claimants. Therefore, the competent authority directed that either the case may be considered as per consent or through determination of entitlement of compassionate appointment by court of law. But the applicant and respondent No.4 have not yet agreed to wipe out their dispute, hence the respondents are unable to pursue and consider the case.

5. In spite of sufficient service and various opportunities granted to the private-respondent, she has neither filed any reply nor put her appearance either through counsel or in person.

6. Heard the learned counsel of the applicant as well as of official respondents, and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. It is well settled position in law that appointment on compassionate ground is not a source of recruitment. It is exception to the general rule. The purpose of compassionate appointment is to prevent destitution and penury in the family of a deceased employee. The person seeking appointment on compassionate ground under a scheme has a right to be considered for appointment, which needs to be decided on the facts of each individual case keeping in mind as to whether the applicant needs all

stipulations of the scheme including financial need and other requirements as recently held (Para 60) by the Full Bench of Hon'ble Patna High Court in the matters of **Prakash Kumar Rai Minor Vs. The State of Bihar and others**, LPA No.1305 of 2013 decided on 18.04.2019.

8. In the instant case it is found that the respondents have not at all considered the case of the applicant for grant of compassionate appointment only on the ground that the same is disputed as the applicant and respondent No.4 have not yet agreed to settle their dispute. The applicant has specifically submitted that the first wife of the deceased-employee is already receiving family pension whereas the second wife is not getting any pension. Further, both the daughters of the first wife are already married, whereas the second wife and her children are facing great financial hardship. He is residing in a rented house along with his mother, brother and sisters. His family has no source of livelihood and is facing starvation.

8.1 It is also found that the private-respondent has not responded to the notices issued by this Tribunal which *prima facie* shows that she has lost her interest in the claim of compassionate appointment.

8.2 In my considered opinion, the demand of succession certificate by the respondents was unnecessary and illegal impediment in violation of the rules of compassionate appointment. The respondents were bound

under a lawful and statutory obligation to grant immediate compassionate appointment under the rules of compassionate appointment.

9. Having considered all aspects of the matter this Original Application is disposed of with a direction that the respondent-authorities may evaluate the relative indigency of the applicant and respondent No.4 in terms of laid down criteria of the respondents. Thereafter consider grant of compassionate appointment to the more indigent person. This exercise may be completed within a period of ninety days from the date of receipt of a copy of this order. No costs.

**(Navin Tandon)
Administrative Member**

rkv