

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1216/2003

New Delhi this the 6th day of November, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Smt. Mani Devi,
wife of late Sh. Duga Shah,
resident of RZL-114, Vijay Enclave,
New Delhi-110045.

(By Advocate Shri A.N. Singh)

Versus

1. Union of India through Director General/Secretary,
Department of Posts, Dak Bhawan,
Parliament Street,
New Delhi-1.
2. Chief Post Master General,
Delhi Circle, Meghdoot Bhawan,
Link Road, New Delhi-1.
3. Senior Superintendent,
Railway Mail, (SSRM),
Air Mail Sorting Division,
Chanakyapuri, New Delhi-21.

(By Advocate Shri R.P. Aggarwal)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Rejection of request of applicant for compassionate appointment by the respondents through their order dated 8.4.2002 is assailed.

2. Applicant, widow of the deceased Government servant who died in harness on 17.9.99 applied for compassionate appointment. Family consisted of widow, one daughter and three sons. Family had received terminal benefits to the tune of Rupees more than 5 lakhs and a family pension of Rs.3500/-. The family also owns a house.

(A)

3. Name of applicant was considered in the circle Recruitment Committee on merits taking into account all factors relevant within the purview of most deserving cases for compassionate appointment against 5% quota falling in the direct recruitment quota. The Committee had considered cases of several applicants whose applications had been received till 31.12.2000. Keeping in view, 8 vacancies in the overall cadre under 5% quota claim of applicant was not found most deserving as compared to others as such was regretted, giving rise to the present OA.

4. Learned counsel for applicant relying upon the decision of the Apex Court in Collector, Land Acquisition, Anantnag and Another v. Mst. Katiji and Others, 1987 (2) SCC 107, presses MA 1096/2003 for condonation of delay contending that request of applicant for compassionate appointment was rejected vide order dated 5.4.2002 and the OA was filed on 12.5.2003. A few days delay may be condoned in the interest of justice and having meritorious claim.

5. On merits relying upon the decision of the Apex Court in Balbir Kaur and another Versus Steel Authority of India Ltd. and others (2006) 6 SCC 493, it is contended that grant of terminal benefits cannot be the sole criteria for judging the claim for compassionate appointment and by referring to the DOPT Scheme contained in OM dated 9.10.1988, it is contended that the family is indigent and the payment made as terminal benefits had been incurred in medical expenses and as no earning member is in the family meagre family pension is not enough to sustain the family, which is destitute with huge liabilities.

(AB)

6. It is contended that the applicant may be considered on some other post as vacancies are available under the quota meant for compassionate appointment.

7. On the other hand, respondents' counsel denied the contentions and stated that as per OM dated 9.10.1998 as well as DOPT OM dated 3.12.99 as the case of applicant was meticulously considered as per the Scheme and keeping in view the terminal benefits received and family pension as well as house owned by the family, circle relaxation committee recommended 8 cases for appointment which are most deserving than applicant. As such, having no indefeasible right to be appointed, the orders passed by the respondents do no suffer from any infirmity. Moreover, it is contended that the OA is time barred whereas the death had occurred in 1999, OA has been filed in 2003.

8. On careful consideration of rival contentions of the parties, in the interest of justice having regard to the decision in Katiji's case (supra) delay in filing the OA is condoned.

9. On merits, as the claim of applicant was not found covered under most deserving cases for compassionate appointment against 5% of the vacancies as the family is not indigent keeping in view the terminal benefits and other factors the Circle Relaxation Committee on careful consideration and after meticulously examining all the attending factors though recommended cases of others who

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are more deserving rejected the case of applicant. This action of the respondents does not suffer from any legal infirmity.

10. It is not the case of applicant that though less deserving others have been appointed on compassionate appointment rules out any discrimination meted out in violation of Articles 14 and 16 of the Constitution of India.

11. Moreover, I am satisfied that apart from terminal benefits and other factors were also considered by the respondents which do not bring the case of applicant within the purview of most deserving cases entitling family to be accorded compassionate appointment. Once the claim has been rightly and legally considered one has no indefeasible right to be appointed on compassionate basis. It is open for applicant's son to seek appointment in government service in accordance with the usual mode of selection.

12. In the result, for the foregoing reasons, as no infirmity is found in the action of the respondents OA is found bereft of merit and is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

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