

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1271/2003

New Delhi, this the 2nd day of January, 2004

Hon'ble Shri S.K. Naik, Member(A)

Smt. Vidya Devi—  
w/o late Badrinarayan  
c/o Rachna Tiwari  
Chamber No.487, Civil Lines  
Tis Hazari Courts, Delhi

.. Applicant

(Ms. Rachna Tewari, Advocate)

versus

Union of India, through

1. Secretary  
Department of Posts, New Delhi
2. Superintendent  
RMS 'D' Division, Delhi
3. Incharge, RMS Office, Bhiwani
4. Asstt. Postmaster General(Staff)  
Haryana Circle, Ambala
5. Vinay Prakash  
Sanvosi Nursery ~~Nagar~~ Near  
Old Power House, Tasham Road  
Bhiwani, Haryana

.. Respondents

(Shri M.M. Sudan, Advocate)

ORDER

The facts in brief are that applicant's husband Shri Badrinarayan while working as Mailman (Group D) died on 27.2.2002, leaving behind his widow, four daughters and one son. Applicant approached the respondents for granting her compassionate appointment through several letters. When they yielded no response, she first filed a Civil Suit before the Court of Addl. Civil Judge, Bhiwani which was later withdrawn and thereafter filed OA 535/2003 which was disposed of by this Tribunal, vide order dated 7.3.2003, with a direction to respondents to consider the request of the applicant and pass a speaking order. In pursuance thereof, respondents have passed a speaking order on 10.4.2003, which is under challenge in the present OA.

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2. While contesting the case, respondents in their reply have stated that the deceased had rendered only 6 years, 1 month and 29 days service in the Department and his case for grant of terminal benefits to his widow was immediately initiated. Applicant's request for compassionate appointment has been considered by the Circle Relaxation Committee keeping in view the guidelines and instructions issued by DoPT from time to time, particularly those dated 9.10.98 and 24.11.2000, according to which compassionate appointments are to be restricted to 5% of vacancies meant for direct quota, and cases are to be approved to the extent of available vacancies without maintaining any waiting list. It was noticed by the Circle Relaxation Committee that the applicant has been granted family pension @ Rs.1275/- p.m. plus DA admissible from time to time, terminal benefits amounting to Rs.1,15,484/-. According to the Committee, the family of the deceased is not indigent and in penury and further that there is no vacancy in Group D under compassionate appointment quota against which applicant could be considered for appointment. Taking into consideration the totality of circumstances, the Committee has rejected the case of the applicant and she has been informed accordingly.

3. Learned counsel for the applicant has argued at length to counter the opinion expressed by the Screening Committee that the applicant is not indigent and in penury. She has contended that a widow of a group 'D' employee is burdened with the responsibility of bringing up five minor children, four whom are daughters and by no stretch of imagination could it be inferred that she would not be in penury, especially when she has no other source of income or support except the family pension.

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(10)

She has submitted that there could be no better deserving case and that the department has arbitrarily rejected her request.

4. I have heard the learned counsel for the parties and considered the pleadings. I have also gone through the records produced by the respondents' counsel relating to processing of case relating to grant of compassionate appointment to various employees in the respondent department including that of the applicant along with the register being maintained showing vacancy position for appointment against compassionate appointment quota, as also the instructions issued by the Government (DoPT) on the subject from time to time.

5. The scheme for compassionate appointment as laid down has the following stipulations:

- i) that the total vacancies for the purpose be limited to 5% of the direct recruitment quota;
- ii) within the limitation of 5% DR quota vacancies should be available for appointment; and
- iii) there will be no carry forward of requests and they have to be considered on annual basis.

The other condition relates to determination of intense merit of deserving cases by a Committee after obtaining full details of size of the family of the deceased, sources of income, assets left behind and liabilities passed on to the widow etc., so as to bring objectivity and transparency in the matter of selection. In the case under challenge Shri Badrinarayan died on 27.2.2002. His widow's case would, therefore, fall for consideration under the vacancies for the year 2002. A perusal of the records indicate that the Screening Committee constituted under DoPT instructions dated 16.5.2001 on optimisation of direct recruit<sup>ment to civilian posts</sup> has authorised filling up of only 10

basic

vacancies in Group 'D' posts during the year 2002 for Haryana Circle. There would, therefore, be no quota/vacancy for appointment against compassionate ground as rightly stated by the respondents.

6. After a careful perusal of the records, I find that there would not be any vacancy in Group D for appointment against compassionate appointment in Haryana Circle for the year 2002 and therefore it would not be necessary for me to go into the other aspects of the case being a deserving one or the averment by the respondents that the applicant is not indigent etc. The Hon'ble Supreme Court in Himachal Road Transport Corporation Vs. Dinesh Kumar JT 1996(5) SC 319 and Hindustan Aeronautics Ltd. Vs. Smt. A. Radhika Thirumalai JT 1996(9) SC 127 has clearly ruled that appointments on compassionate ground can be made only if vacancy for that purpose is available. Compassionate appointment by its very nature and as the terminology itself suggests will always have in its background a misery but question of appointments cannot be based merely on sympathy nor can it be claimed as a matter of right.

7. Resultantly, having regard to the decisions of the Supreme Court (supra) which are binding on this Tribunal and also for the reasons mentioned above, I find no merit in the present OA and the same is accordingly dismissed. There shall be no order as to costs.

Naik  
(S.K. Naik)  
Member(A)

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