

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1424/2003

New Delhi, this the 9th day of January, 2004

HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

- 1. Smt Kanti Devi Widow of Late Ranveer Singh,
- 2. Shri Satya Pal Singh S/o Late Ranveer Singh,
Ex-Extra Departmental Delivery Agent,
Post Office : Shahnagar Timarua
Via Jalesar Town-Etah,
R/o Vill & Post Shahnagar Timarua
(Jalesar Town) Etah

... Applicants

(By Advocate : Shri D.P. Sharma)

Y

V e r s u s

- 1. Union of India through The Secretary,
Ministry of Communication,
Department of Posts, Sansad Marg,
New Delhi
- 2. The Chief Post Master General,
U.P. Circle,
Lucknow
- 3. The Superintendent Postoffices,
Etah Division, Etah

... Respondents

(By Advocate : Shri R.N. Singh)

O R D E R (ORAL)

The applicants have preferred this Original Application against the order of the respondents dated 31.3.2003 rejecting the application of applicant No.2 for appointment on compassionate ground in consequence of the death of his father late Shri Ranveer Singh, Extra Departmental Delivery Agent (EDDA), Post Office Shahnagar Timaruna, District Etah while in service on 18.6.1999.

2. The respondents have rejected the case of the applicants on the ground that the financial conditions of the family are not indigent, as they have found that there is no minor daughter to be married in the family; that, of



the two major sons, one is in Defence service; and that the family has 0.850 hectare of land and from which an annual income of Rs.12,000/- is derived.

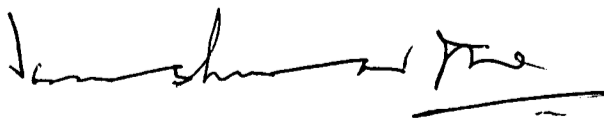
3. It is observed from the facts submitted by the applicants that soon after the death of late Shri Ranveer Singh on 18.6.1999, applicant No.1 was allowed to be engaged in the place of his father in the said Post Office and in which he continued to function till 19.11.2001, i.e., for about 2 years and 7 months. He has, however, not been continued beyond 19.11.2001 against which also he had submitted a representation on 4.1.2002 (Annexure AS-4).

4. To reinforce their argument that the financial conditions of the family are genuinely indigent, the applicants have submitted that the family has no source of income except from the 0.850 hectare of agricultural land and half of which has been taken away by the elder son. Though there was some succour to the family while the applicant No.2 had been allowed to function in the place of his father for more than two years, with the same also having not been continued after 19.11.2001 the conditions of the family have further deteriorated. The 0.425 hectare of agricultural land which is available with the family generates hardly Rs.500/- per month; and with the elder son of the deceased employee maintaining his own family and not supporting the family of the deceased employee, this income gets further stressed.

5. During the course of arguments, the learned counsel

for the applicants has pointed out that under the method of recruitment in respect of ED Delivery Agents, adequate means of livelihood has been prescribed as one of the conditions for such recruitment and the criterion to judge the adequate means of livelihood should be that in case the incumbent loses his main source of income should be adjudged as incurring a disqualification to continue as ED SPM/ED BPM. It is in this context that the landed property owned by the family of the applicants has to be seen. The learned counsel has further submitted that the Department is mutatis mutandis following the guide-lines contained in OM No.14814/6/86 dated 30.6.1987 of the Ministry of Personnel, Public Grievances & Pension. In the clarifications given by the said Department in regard to the said guide-lines, it has been mentioned that it would be necessary that a vacancy caused due to the death of an ED Agent is filled by appointing one of his/her dependants or near relatives on compassionate grounds. If it is not done, it would be very difficult to give compassionate appointments in hard cases. The provision for relaxation of educational qualification has also been made w.e.f. 1.4.1993.

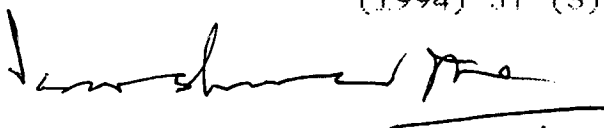
6. The respondents have, however, contested the case of the applicants mainly on the ground that the family of the deceased had sufficient income to sustain themselves. In support of their contention, they have submitted the details of the income of the family in paragraph 8 of the reply. Briefly stated, they have shown the annual income of the widow of the deceased employee as Rs.1,000/-, the annual income of one of the sons (Shri Pramod Singh) as



Rs.4,100/- and the annual income of another son (Shri Satya Pal Singh) as Rs.1,000/-. In addition, the respondents have also submitted that the family had received Rs.48,000/- as terminal benefit. They have stated that the financial condition of the family was excellent as seen by the Circle Relaxation Committee and, only after due consideration, the case was rejected on the ground as mentioned above. They have also maintained that they have been following the policy/scheme laid down by the Department of Personnel & Training vide their OM dated 9.10.1998 and they do not find enough justification in the case of the applicant No.2 being given appointment on compassionate ground in the light of the said guide-lines. They have also referred to the poverty level as defined by the Planning Commission, which has been taken to be Rs.1767.20 for a family, as a yardstick to examine the cases of financial destitution.

7. They have also cited certain cases to argue that appointment on compassionate ground can be made only after a vacancy is available for that purpose and also to drive home the point that appointment on compassionate ground is to be given only to provide immediate succour and not as an employment alone. In two of the cases cited by them, namely, Sanjay Kumar vs. State of Bihar {(2000) SCC (7) 192} and Haryana State Electricity Board vs. Hakim Singh { 1999 (1) S.J. 114 (SC) } it has been held, among other things, that such appointments involve neither a lien nor a succession. The other cases relied upon by the respondents in this regard include the following:-

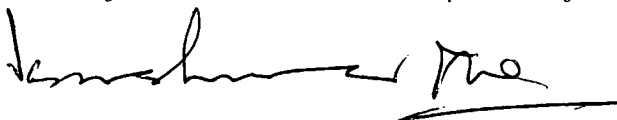
(1.) Umesh Kumar Nagpal vs State of Haryana
(1994) JT (3) SC 525



- (2) Himachal Road Transport Corpn. vs. Dinesh Kumar (JT 1996 (5) SC 319
- (3) Hindustan Aeronautics Ltd. vs. A. Radhika Thirumalai (1996) JT (9) SC 97
- (4) LIC of India vs. Mrs. Asha Ramchander Ambedkar & Ors. JT 1994 (2) SC 183
- (5) Veer Mohd. vs. M.C.D. 1995 (2002) DLT 663 (DB).

8. In the end, the respondents have submitted that, while rejecting the case of the applicants, they have considered all aspects of the matter and have also stated that the services claimed to have been rendered by the applicant No. 2 during the period 19.6.1999 to 19.11.2001 had, in fact, been allowed by the authority not competent to do so and the same was dis-continued/ dispensed with on 19.11.2001 as soon as it came to the notice of the competent authority.


9. On examination of the rival contentions of the parties, it is thus observed that while the applicant No. 2, whether rightly or wrongly, served the respondents for more than two and a half years in the place vacated by his deceased father, the respondents dis-continued the same for the reason that it had not been allowed by the competent authority and also ignoring the provisions as referred to above whereby he should have been allowed appointment on compassionate ground in the place of his father. Perhaps, the authority who permitted him to be engaged for more than two and a half years did so under the provisions which have been referred to by the learned counsel for the respondents in his submissions and which have also been mentioned above. It is also not convincing that in order to be adjudged as financially indigent, a person/family has to be just below the poverty line as defined by the Planning



6. 5

Commission. Rationally and practically, any family around the poverty line or slightly above it will be equally financially indigent so as to merit consideration for appointment on compassionate ground. Family income of the kind which has been claimed by the respondents in the case of the applicants is, by no yardstick, a decent income as to sustain the family. The applicant has quite clearly submitted that his family managed to carry on with the meagre income which the applicant No.2 derived from his engagement in place of his father for two and a half years and that things deteriorated for them after that engagement was discontinued. Obviously his family would be poorer still. In my opinion, there is sufficient justification for the Circle Relaxation Committee to go into the indigency aspect of the family of the deceased and to reconsider the matter all over again. It should not be lost sight of that even the deceased employee was an Extra Departmental Delivery Agent and he himself was a person with a very low income.

10. Thus, having regard to the facts and circumstances of the case and keeping in view the prayer of the applicants that the case of the applicant No.2 for compassionate appointment may be reconsidered, and being satisfied with the argument given therefor, I dispose of this Application with a direction to the respondents to reconsider the case of applicant No.2 for compassionate appointment in the light of my observations as given above and dispose it of by issuing a reasoned and speaking order within three months from the date of receipt of a copy of this order. No costs.



(SARWESHWAR JHA)
MEMBER (A)

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