

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1463/2003

This the 5th day of August, 2003.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Smt. Khoob Kala Devi W/O Mohan Lal,
R/O 33-B, Gali No.3, Kundan Nagar,
Delhi-110092.

... Applicant

(By Shri Surjan Singh and Shri S.S.Arya, Advocates)

-versus-

1. Union of India through
Secretary, Ministry of
Communication, Sanchar Bhawan,
New Delhi-110001.

2. Chief Post Master General,
Delhi Circle,
New Delhi.

... Respondents

(By Shri R.P.Aggarwal, Advocate)

O R D E R (ORAL)

Applicant has challenged Annexure A-1 dated 9.4.2003 whereby her case for appointment of her son Devendra Kumar on compassionate grounds has been rejected on the ground that applicant's case does not come within the purview of most deserving cases under the scheme for compassionate appointment against 5% vacancies falling under the direct recruitment quota. Respondents have also taken various other factors into consideration while rejecting her case.

2. Earlier on applicant had filed OA No.355/2003 which was disposed of on 11.3.2003 (Annexure A-2 colly.) with direction to respondents to finalise the claim of applicant's son for compassionate employment in the light of respondents' letter dated 15.2.2001 by a detailed and speaking order. Annexure A-1 has been issued in compliance of directions contained in order dated 11.3.2003.

3. The learned counsel of applicant stated that respondents have advertised through Annexures A-6 and A-7, 96 vacancies (76+20) for recruitment of Postal Assistant/Sorting Assistant/Postman and Group 'D' employees. The learned counsel stated that while respondents have stated that there are no vacancies under the 5% quota for compassionate employment, these advertisements prove existence of 96 vacancies, 5 of which must be offered on compassionate grounds. He also drew my attention to Annexure A-3 dated 15.2.2001 whereby applicant's consent for appointment of her son on compassionate grounds in other departments was asked for.

4. On the other hand, the learned counsel of respondents showed the relevant records relating to compassionate appointments. He also relied on Government instructions contained in OM dated 22.6.2001. These read as follows :

".....It has, therefore, been decided that in future the Committee prescribed in Paragraph 12 of Office Memorandum, dated 9-10-1998 [Order (2) above] for considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should limit its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/Department/Office, that too within the ceiling of 5% of vacancies falling under DR quota in any Group 'C' or 'D' post prescribed in this regard in para 7(b) of Office Memorandum, dated 9-10-1998 [Order (2) above] referred to above.

2. The instructions contained in the Office Memorandum referred to above stand modified to the extent mentioned above."

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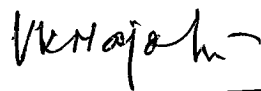
In this background the learned counsel contended that even if advertisements had been issued for 96 vacancies occurring in 2003, they cannot be related backwards for calculating 5% vacancies in direct recruitment earmarked for compassionate employment as those 5% vacancies have to be made available within a period of one year. The learned counsel stated that applicant's case was considered by the Circle Relaxation Committee on 14.8.2000. 11 candidates were selected for reference to other departments for appointment. Applicant's son could not be included among them on the basis of comparative particulars, such as number of dependent family members, extent of terminal benefits, etc. He further stated that none of those 11 candidates too could be offered employment on compassionate grounds in other departments.

5. In terms of OM dated 22.6.2001 compassionate appointment percentage is limited to availability of vacancies within a period of one year. It is not applicant's case that such vacancies were available when she made the application and within a period of one year thereof. Occurrence of 96 vacancies in the year 2003 cannot be related to calculate the percentage of vacancies available for compassionate appointment in a case where death of the Government servant occurred on 7.12.1998. From the records produced by respondents, it is clear that on competitive merit in which relevant factors were taken into consideration only 11 candidates could be selected out of a total of 72 for reference to other departments for consideration for appointment on compassionate grounds. Applicant's son was one of them. However, he could not be chosen for reference to other departments. None of those 11 too could be offered

appointment on compassionate grounds. The fact that respondents had by Annexure A-3 dated 15.2.2001 asked for willingness of applicant for consideration of employment in other departments does not confer any right on applicant for appointment in Government service on compassionate grounds. Annexure A-3 is only in the nature of an effort on the part of the Government to help applicant in securing job for her son on compassionate grounds.

6. I have also gone through the contents of the impugned order. It is a detailed and reasoned order in which all aspects of the matter have been considered. No good grounds have been made available on behalf of applicant to interfere with the impugned orders. I have also gone through the records and instructions produced by respondents which support the contentions of respondents.

7. Having regard to the discussion made above and agreeing with the contentions raised by respondents and finding no merit in the OA, there is no reason to interfere with the impugned order. The OA is dismissed being devoid of merit. No costs.



(V. K. Majotra)
Member (A)

/as/