

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 2496/2003

New Delhi, this the 28th day of July, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

1. Sh. Vinay Kumar Sharma
S/o Late Sh. Jagdish Chand Sharma
Ex-Postal Asstt. of New Delhi
Central Division.

2. Smt. Urmila Devi, Wife of
Late Sh. Jagdish Chand Sharma

Both the above applicants are
R/o H.No.698/7, Gali No.15
Adarsh Mohalla, Maujpur, Delhi.

...Applicants

(By Advocate Sh. Sant Lal)

V E R S U S

Union of India through

1. The Secretary
Ministry of Communication
Deptt. of Posts
Dak Bhawan, New Delhi - 1.

2. The Chief Postmaster General
Delhi Circle, Meghdoot Bhawan
New Delhi - 1.

...Respondents

(By Advocate Mrs. Promila Safaya)

O R D E R (ORAL)

Shri Sarweshwar Jha,

Heard

2. At the very outset, the learned counsel for the applicants invited my attention to the prayer made in the MA for production of certain records and emphasised that these records would be required for proper adjudication of the matter so as to meet the ends of the justice.

3. The learned counsel for the respondents has confirmed that the relevant records, as prayed for being produced by the applicant in the said MA, are available with her and will be produced before the Bench if required. She

S. Me

also read out the relevant documents in this regard so that the same could also be heard by the learned counsel for the applicants.

4. The facts of the matter, briefly, are that the deceased employee, late Sh. Jagdish Chand Sharma, Postal Asstt. in New Delhi Central Division who died in harness on 4-2-1999, was the father of the applicant no. 1 and the husband of the applicant no. 2 in this OA. On his death, applicant no. 2 submitted an application on 4-5-2000 for employment of her son Sh. Vinay Kumar (applicant no. 1), on attaining majority, on compassionate grounds. She was asked to fill and submit certain prescribed forms in May 2000, which were submitted, duly filled-in. The applicants have submitted that they have incurred huge expenses on the marriage of the eldest daughter of the deceased employee during the latter half of 2000 which were met from the terminal benefits received from the Department. Two daughters of marriageable age, besides two sons dependant on the applicant no. 2, are immediate liability on the family. She has also some social obligation in respect of her daughter who has been recently married, though she is not now fully dependant on her. The deceased employee being the sole bread earner for the family, with his untimely death, the family has got into several financial hardships.

5. However, the respondents issued the impugned letter dated 12-4-2002 on behalf of the Circle Office conveying the rejection of the request of the applicants. The applicants have alleged that the respondents have shown complete disregard to the social welfare scheme of compassionate appointment and the pitiable circumstances of the applicants. A representation has been submitted by the

S. Me

15

applicant on 10-6-2002 against the impugned order to the next higher authority, i.e., Member (Posts) seeking his intervention for redressal of his grievance. The said representation, however, has not been responded to by the respondents. Another representation dated 19-2-2003 has been submitted by the applicant to the Minister of Communications followed by another representation dated 23-7-2003; but these have not been replied to so far. The grievance of the applicants is that the respondents have not taken into account the financial condition of the family nor the liabilities which the family has to face. In this connection, they have cited the decisions of the Principal Bench of the Tribunal in the case of Anarkali & Ors. vs. Union of India & Ors. (2001 (2) ATJ.387) in which it was held that the order rejecting the prayer of the applicant for appointment on compassionate grounds cannot be sustained, as the respondents have taken into consideration the terminal benefits given to the family member of the deceased employee. Reference has also been made to the decisions of the Hon'ble Supreme Court in the case of Balir Kaur & Ors. vs. Steel Authority of India (2000 (2) SC SLJ-71) in which the aspect that compassionate appointment is given in order to bring some solace to the situation and not to replace the bread earner of the family has been emphasized. Reliance has also been placed on the decisions of the Calcutta Bench of the Tribunal in the case of Smt. Sushila Rani Roy vs. UOI (2991 (3) ATJ-607) in which rejection of the applicant's case on the ground of his financial status has not been found to be sustainable.

6. The applicants have come to know of a large number of vacancies in Group C and D having been released to be filled up by various Postal Circles in the country, as

S. Me

orders dated 11-6-2002 and 18-9-2003. It will also be necessary for the respondents to have considered the matter with reference to the parameters laid down for such appointment and not only on the basis of one or two parameters, following the scheme as laid down by the Department of Personnel and Training.

11. Having considered the above and having kept in view the various decisions as cited by the applicants and also giving due consideration to the oral submissions made by the learned counsel by the parties, I am of the considered view that this OA can be disposed of with a direction to the respondents to give a fresh consideration to the subject matter of this Original Application in terms of the instructions of the Department of Personnel and Training as contained in their OM dated 5-5-2003 and also as observed above and to do the needful with reference to the scheme on the subject and other aspects of the matter as observed above. The respondents shall do well to dispose of the matter by issuing a speaking order within a period of three months from the date of receipt of a copy of this order. No order as to costs.



(Sarweshwar Jha)
Administrative Member

/gkk/

applicant on 10-6-2002 against the impugned order to the next higher authority, i.e., Member (Posts) seeking his intervention for redressal of his grievance. The said representation, however, has not been responded to by the respondents. Another representation dated 19-2-2003 has been submitted by the applicant to the Minister of Communications followed by another representation dated 23-7-2003; but these have not been replied to so far. The grievance of the applicants is that the respondents have not taken into account the financial condition of the family nor the liabilities which the family has to face. In this connection, they have cited the decisions of the Principal Bench of the Tribunal in the case of Anarkali & Ors. vs. Union of India & Ors. (2001 (2) ATJ.387) in which it was held that the order rejecting the prayer of the applicant for appointment on compassionate grounds cannot be sustained, as the respondents have taken into consideration the terminal benefits given to the family member of the deceased employee. Reference has also been made to the decisions of the Hon'ble Supreme Court in the case of Balir Kaur & Ors. vs. Steel Authority of India (2000 (2) SC SLJ-71) in which the aspect that compassionate appointment is given in order to bring some solace to the situation and not to replace the bread earner of the family has been emphasized. Reliance has also been placed on the decisions of the Calcutta Bench of the Tribunal in the case of Smt. Sushila Rani Roy vs. UOI (2991 (3) ATJ-607) in which rejection of the applicant's case on the ground of his financial status has not been found to be sustainable.

6. The applicants have come to know of a large number of vacancies in Group C and D having been released to be filled up by various Postal Circles in the country, as

S. Me

submitted by them in paragraph 5.5 of their OA. This includes 37 vacancies of Group C and 19 vacancies of Group D earmarked for Delhi Circle for the year 2001 and 26 vacancies of Group C and 14 vacancies of Group D of less than one year old have been approved to be filled. The applicants have alleged that these vacancies have not been taken into account for considering the case of the applicants. Another important thing which has been mentioned by the applicants is that the Department of Personnel & Training have since, vide their OM dated 5-5-2003, extended to the limitation of one year for considering the case of compassionate appointment and has allowed this period to be extended ^{to} three years during which the case of the applicants would continue to be considered against the vacancies arising in due course.

7. As requested in the MA as referred to above, the respondents brought up the details of the proceedings of the meetings of the CRC which considered the case of the applicant together with 130 other cases. Different aspects of the matter including the number of vacancies considered for appointment on compassionate grounds were reported to the CRC while recommending the names of the deserving candidates. It is observed that the respondents did not find the case of the applicants indigent enough vis-a-vis other cases to be recommended for appointment on compassionate grounds. The number of vacancies which were kept in view by the CRC were also indicated by the learned counsel for the respondents. However, it was confirmed by the learned counsel for the respondents that the case of the applicant was not considered second time or third time as suggested in the Office Memorandum dated 5-5-2003 of the Department of Personnel and Training referred to by the applicant and also required to be produced before the Bench. It was, however, not clear from

S. Me

17

the submissions made by the learned counsel for the respondents as to whether in the cases which were finally recommended by the CRC meeting held on 7-2-2002, the death of the government servants concerned had taken place earlier than the death of the employee in the present OA. The file numbers of the cases were, however, indicated. While some cases appeared to be older than the case of the applicants in the present OA, from the submissions made by the learned counsel for the respondents it did not appear whether these were submitted to the respondents later than the case of the applicant in the present OA was submitted. As regards the number of vacancies which were released by the DG(Posts) vide his orders dated 11-6-2002 and 18-9-2003 having been considered for the purpose of appointment on compassionate grounds, it was quite obvious that these had not been placed before the meeting of the CRC on 7-2-2002, as these were released only later. These vacancies being taken into account by the CRC would become relevant only when the matter in regard to the applicant is considered second time or third time. It also needs to be mentioned, as it transpired from the submissions made by the learned counsel for the respondents that consideration of a case for the second time or for the third time shall depend on the matter having been scrutinised by the CRC and the CRC having made a recommendation to that effect specifically. Consideration for the second time or the third time of the case of the applicant would, therefore, need to be duly recommended by the CRC only.

8. The learned counsel for the applicants clarified that they have not made request for appointment on compassionate grounds with reference to any specific category of post. Their request is for consideration of the case of

S. The

18

the applicants for appointment of applicant no. 1 against any post which is available for such appointment including Group 'D' post.

9. The learned counsel for the respondents has referred to the replies which have been filed by her on behalf of the respondents in reply to the OA as well as the MA, in which some of the relevant things like the matter regarding compassionate appointment of the applicant no. 1 having been considered by the committee constituted for the purpose along with other cases on 7-2-2002 and the Department of Personnel and Training OM dated 22-6-2001 have been referred to. Some relevant cases also have been cited in the reply in support of the contention of the respondents that the present OA may be dismissed.

10. On perusal of the facts and after listening to the learned counsel for the parties, it is thus observed that the case of the applicant has been considered by the CRC only once and there is no indication whether the CRC has made a recommendation for considering the case of the applicant for the second time, as the relevant orders of the Department of Personnel and Training in this regard came only later, i.e., in May, 2003, whereas the CRC had already been held in February, 2002. What is, therefore, required is that the respondents be directed to place the matter before CRC for considering the case of the applicant in view of the instructions as contained in the Department of Personnel and Training OM No. 14014/19/2002-Estt.(D) dated 5-5-2003. While considering the matter for the second time it would be expected of the respondents that they consider the matter keeping in view the vacancies, if any, released by the DG(Posts), as claimed by the applicant, vide DG(Posts)'s

2. AO

orders dated 11-6-2002 and 18-9-2003. It will also be necessary for the respondents to have considered the matter with reference to the parameters laid down for such appointment and not only on the basis of one or two parameters, following the scheme as laid down by the Department of Personnel and Training.

11. Having considered the above and having kept in view the various decisions as cited by the applicants and also giving due consideration to the oral submissions made by the learned counsel by the parties, I am of the considered view that this OA can be disposed of with a direction to the respondents to give a fresh consideration to the subject matter of this Original Application in terms of the instructions of the Department of Personnel and Training as contained in their OM dated 5-5-2003 and also as observed above and to do the needful with reference to the scheme on the subject and other aspects of the matter as observed above. The respondents shall do well to dispose of the matter by issuing a speaking order within a period of three months from the date of receipt of a copy of this order. No order as to costs.



(Sarweshwar Jha)
Administrative Member

/gkk/