

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.459/2016

**(Union of India, through Secretary, Ministry of Communication, New Delhi
and ors. .vs. Suraj Diwakar Punekar.)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. Ambrish Joshi, Advocate for Petitioner.

CORAM : B.R. Gavai & P.N. Deshmukh, JJ.
DATED : January 25, 2016.

The petitioner-Union of India approached this Court being aggrieved by the judgment and order passed by the learned Central Administrative Tribunal in Original Application No. 2150/2010 thereby allowing the original application filed by the respondent and directing them to provide employment to the respondent within a period of eight weeks from the date of the said order.

2. The respondent's father was working as a Postal Assistant in Ballarpur Paper Mills Post Office in Chandrapur district. The respondent's father died due to tuberculosis on 11.06.2006. The respondent, therefore, applied for the post of Postal Assistant on compassionate ground on 27.07.2006. Vide order dated 03.03.2010 the application of the respondent came to be rejected. Being aggrieved thereby, he filed the original application. The original application is allowed by the impugned order. Hence the present writ petition.

3. Mr. Joshi, learned counsel appearing on behalf

of the Union of India states that the learned Tribunal has grossly erred in allowing the original application. He submits that each case is considered by the Circle Relaxation Committee on its own merits taking into consideration the hardships as are caused to the family on account of the death of the earning member. He submits that in the present case the respondent's mother was already receiving a substantial amount of family pension. Not only that but the family also owns a house and, therefore, the said Committee found that there were severe indigent cases than that of the respondent and as such rightly rejected the respondent's claim.

4. We have perused the judgment and order passed by the learned tribunal. The learned tribunal by giving a cogent and sound reasoning, has allowed the original application. It will be relevant to refer to the Field Investigation Report to verify the claim of the respondent. Though it was found that the family was residing in their own house, there was no annual income from the said immovable property and there was also no agricultural land owned by the family. It would further reveal from the said report that the monthly basic family pension was Rs.3000/- and was paid at the enhanced rate. It was further found that though the wife of the deceased had received the terminal benefits in the sum of Rs.2,12,271/-, out of that an amount of Rs.1,76,085/- was recovered as society dues. It appears that on account of serious ailment of the respondent's father, a huge expenditure would have been incurred

and for that an amount must have been taken on loan from the society. The report further reveals that only an amount of Rs.36,186/- came in the hands of the mother of the respondent. The report further reveals that both the sons of the deceased were working as daily-wagers and receiving a meagre amount.

5. Mr. Joshi vehemently submits that the cases which are approved, were cases of the persons having severe indigent circumstances. He fairly pointed out to us the cases at page No. 95 of the paper book of the persons whose cases were approved. In the case of one Amit U Kadam, his father had also died in the year 2006 at the age of 41 years. The family had received terminal benefits at Rs.1,26,325/- and the family pension prior to the revision was determined at Rs.3077/-. It was found that the dependency included widow, the youngest son who was 18, two elder brothers aged 23 years. The said family was also owning a house as well as the agricultural land. The other person whose claim has been found to be approved is Mayur Shende, whose father had died at the age of 45 years. Unfortunately in the said case of the applicant, both his father and mother had expired on the same day and he was the only son dependent on the deceased. He received terminal benefits of Rs.2,60,592/- and he also owned a house. The third case approved is of Ms. Sweta Gharat. Her father had died at the age of 54 years again in the year 2006. The terminal benefits of Rs.2,78,370/- was received and the pre-revised family pension was determined at Rs.3940/-. The dependents included wife

and younger daughter who was 24 years old.

6. Let us compare these cases with the case of the present respondent. His father had died at the age of 47 years. The dependents included the wife, two sons including the applicant and a daughter. No agricultural land was owned by them though they possessed their own house. However, no income was received from the immovable property. Both the sons were working as daily-wagers. The pre-revised family pension was more than Rs.3000/- in all the three cases whereas in the present case it was only Rs.3000/-. In that view of the matter, it cannot be said that the cases which were approved were the cases where the applicants suffered more hardships. We have no hesitation to hold that the hardship suffered by the present respondent's family if not more, but is at least of equal grade as that of the applicants whose cases have been approved.

7. In that view of the matter, we see no perversity in the approach adopted by the learned Tribunal. On the contrary we find that the view taken by the learned Tribunal is just, proper and in consonance with the law. The petition is, therefore, found to be without merit and as such rejected.

JUDGE

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