



CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

O.A. No. 60/384/2019 & M.A. NO. 60/241/2020

Chandigarh, this the 14th day of February, 2020

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Ram Kumar aged about 38 years son of late Yash Pal, r/o H. No. 548, Tribune Colony, Kansal, PO Nayagaon, Dist. SAS Nagar, Mohali 160103 (Group-D).

...Applicant

(BY: Mr. Ashok Giri, Advocate)

Versus

1. Union of India through Secretary to Govt. of India, Ministry of Personnel PG and Pension, Department of Personnel and Training, North Block, New Delhi-110003.
2. Home Secretary, Department of Personnel, Chandigarh Administration, Chandigarh 160009.
3. Chief Engineer, Public Health, U.T. Chandigarh 160009.
4. Executive Engineer Project P. H. Div No. 3, Addl. Deluxe Building, Sector 9, Chandigarh 160009.
5. Regional Employment Officer, Chandigarh 1600017.

... Respondents

(BY: Ms. Monika Kaundal proxy for Mr. K.K. Thakur, Advocate for respondent no. 1.

Mr. Mukesh Kaushik, Advocate for respondents no. 2-5



O R D E R (Oral)

SANJEEV KAUSHIK, (Member) (J):

The applicant in the present Original Application(O.A.) lays challenge to order dated 29.11.2018 (Annexure A-1), whereby his claim for appointment on compassionate ground has been rejected, on the plea that he does not possess the requisite qualification i.e. Matric for Group-D post.

2. Before touching upon the contentions of parties, it would be better to recapitulate the facts of the case. Father of the applicant, while working with the respondent department as Beldar had died on 4.1.2003. The applicant had applied for appointment on compassionate ground on 9.6.2003 and his case was closed after three years on 3.1.2006. Aggrieved by the said order, he filed O.A. NO. 340/CH/2006, which was allowed and the respondents were directed to consider the case of the applicant for grant of compassionate appointment in accordance with Scheme and instructions. The respondents, aggrieved with the order of this Tribunal, had filed CWP No. 821 of 2009, before the Hon'ble High Court in which at first instance the order of this Tribunal was stayed and finally the said Writ Petition was dismissed on 22.1.2018 by directing the respondents to consider the claim of respondent (applicant herein) in the



light of decision in the case of **Krishna Kumari vs State of Haryana and Ors** – 2012 (2) SCT 736. It is, thereafter, the respondents have considered the claim of the applicant and rejected the same on the ground that he does not possess the requisite qualification for Group- D post.

3. In support of the claim of applicant, Mr. Ashok Giri learned counsel for applicant, vehemently argued that the impugned order is liable to be quashed and set aside on the ground that the respondents have not considered the claim of applicant objectively and have rejected it on the sole ground that he does not possess the requisite educational qualification of matric, which is essential for appointment to the post of Beldar. He argued, that in terms of Chandigarh Administration (Group-D) Service Rules, 1993, the powers have been given to the Competent Authority to relax the qualification in case of compassionate appointments. The respondents have not considered the claim of the applicant for grant of relaxation in terms of Rule 5 (d) of the rules *ibid*. Thus, he argued that the O.A. be allowed and the impugned order be quashed and set aside.

4. On notice of motion, the respondents have filed written statement, wherein they have not disputed the factual matrix of the matter. However, it is stated that in terms of the direction of Hon'ble High Court the case of the



applicant was considered on 29.11.2018 and since the applicant does not fulfil the requisite qualification, thus it was rejected.

5. Mr. Mukesh Kaushik, learned counsel for Chandigarh Administration vehemently opposed the prayer of the learned counsel for applicant and argued that since the applicant does not possess the requisite qualification of matric for Group D post as per Chandigarh Administration (Group-D) Service Rules, 199, thus his case has rightly been rejected.

6. I have heard the learned counsel for the respective parties, perused the pleadings available on record with their able assistance, and given my thoughtful consideration to the matter.

7. I am of the considered view that the O.A. deserves acceptance for the reason that the father of the applicant had died on 4.1.2003 and the case of the applicant for grant of appointment on compassionate ground was closed on 3.1.2006, which order was set aside by this Tribunal vide order dated 16.1.2008. The respondents instead of reconsidering the claim of applicant went before the Hon'ble High Court against the order of this Tribunal by filing CWP NO. 821/2009, in which at the first instance, the order of this Tribunal was stayed and the matter was kept pending and ultimately the said CWP was dismissed on 22.1.2018.



The respondents have considered the claim of applicant and rejected vide order dated 29.11.2018. Perusal of order (Annexure A-1), clearly makes it clear that the claim of the applicant has been rejected on the plea that he does not possess the requisite minimum qualification, which is middle standard but, wrongly mentioned it as matric in the impugned order. There is no whisper in the order other than this as to on which ground they have rejected the claim of the applicant. After the death of applicant's father, much water has flown down the river. It is not mentioned in the order whether the Competent Authority has exercised its powers for relaxation of qualification in terms of Rule 5 (d) of Chandigarh Administration (Group-D) Services Rules, 1993, which is reproduced herein below while considering the claim of the applicant.

" (d) Possess the minimum qualification of Middle Standard and such other additional qualifications and experience as may be required for the post to be specified by the concerned Administrative Secretary. The qualifications can be relaxed in case of compassionate appointment by Government."

There is complete absence of this exercise of powers on the part of the respondents.

8. The impugned order is, therefore, quashed and set aside and matter is remitted back to the respondents to re-appreciate the claim of applicant for grant of relaxation as



provided under the Rules for grant of compassionate appointment. The O.A. stands allowed in the above terms. The necessary exercise in this regard shall be carried out by the respondents within a period of three months from the date of receipt certified copy of this order. No costs. Pending M.A. also stands disposed of.

(Sanjeev Kaushik)
Member (J)

Place: Chandigarh
Dated: 14.02.2020
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