

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

OA No. 521 of 2018

Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)

1. Shri Biswaranjan Barik, aged about 39 years, S/o. Late Benudhar Barik, At. – Padhanpatana, Po.- Banmalipur, P.S.- Balipatna, Dist – Khurda.

.....Applicant.

VERSUS

1. Union of India, represented through its Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110016.
2. The Chief Postmaster General, Orissa Circle, At/Po.- Bhubaneswar, Dist. –Khurda - 751001.
3. Sr. Superintendent of Post Office, Bhubaneswar Division, At/Po/ - Bhubaneswar, Dist – Khurda – 751009.

.....Respondents.

For the applicant : Mr. N. R. Routray, Advocate

For the respondents: Mr. A. Pradhan, Advocate

Heard & reserved on : 06.03.2020

Order on : 18.05.2020

O R D E R

Per Mr. Swarup Kumar Mishra, Member

The applicant by filing this OA, has prayed for the following reliefs under section 19 of the Administrative Tribunals Act, 1985:-

1. *Under the circumstances, it is humbly prayed therefore that this Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 12.06.2017 passed by the Res No. 2 under Annexure A/8. And further be pleased to direct the Respondents to reconsider the case of the applicant for appointment under compassionate ground keeping in view the rule governing the field at the time of death of the applicant's father.*

And any other order (s) as the Hon'ble Tribunal deems just and proper in the interest of the justice.

2. The case of the applicant in brief as averred in OA is that the father of the applicant was working as Sub-Postmaster in Kakatpur S.O. under Respondent No. 3 and while working he expired on 15.03.2012. After the death of father, the applicant submitted an application for appointment under compassionate appointment and when that was not considered, mother of the applicant submitted a representation (Annexure -A/3) to the Respondent No. 2 for considering her son's case for appointment under compassionate ground. Respondent No. 3 vide letter dated 12.06.2012 (Annexure A/4) directed the ASPO I/c, Bhubaneswar North Sub Division to collect the synopsis paper along with all relevant documents of the applicant and to submit for consideration of the case. In the said letter dated 12.06.2012 the mother of the applicant was directed to contact ASPO I/c and submit the required synopsis paper with relevant documents. Another letter dated 20.07.2012 (Annexure A/5) was communicated to the applicant stating to submit the aforementioned documents within five days to the ASPO I/c for consideration. The applicant submitted the synopsis paper along with all relevant documents to ASPO I/c. Subsequently Respondent No. 3 vide letter dated 05.02.2013 (Annexure A/6) rejected the case of the applicant mentioning that CRC has not approved the case of the applicant as per points obtained by the applicant as per norms of the Department and the case of the applicant has not come within the zone of vacancies earmarked for compassionate appointment of PA/SA & Postman/Mail Guard cadres. The applicant then filed an OA No. 450/2016 before this Tribunal which vide order

dated 14.07.2016 (Annexure A/7) directed the Respondent No. 2 to consider the representation in accordance with the rules and instructions and communicate the decisions thereon to the applicant in a reasoned and speaking order within a period of 60 days from the date of receipt of the order. The respondents as per this Tribunal order considered the case of the applicant in its CRC meeting dated 25.04.2017 and vide order dated 12.06.2017 (Annexure A/8) communicated the rejection of the case of the applicant as he secured 43.16 points and candidates with 61 and above merit points were recommended for appointment under vacancies earmarked for compassionate appointment for the year 2016-17. Hence this OA.

3. The respondents in their counter inter alia averred that the case of the applicant was considered in the Circle Relaxation Committee meeting held on 11.01.2013 against the vacancy earmarked for compassionate quota i.e. 5% of the vacancy in departmental cadre for the year 2012 but could not be approved by the CRC as he secured 43 merit points in a 100 point scale based on indigency related parameters/norms of the department prescribed vide Directorate letter No. 37-36/2004-SPB-I/C dated 20.01.2010. Then thereafter the order of this Tribunal in OA No. 450/2016 the applicant case was considered and put up before next CRC meeting held on 25.04.2017 (Annexure R/3) along with 49 other cases against 16 vacancies in PA/SA/Postman/MTS cadre earmarked for compassionate quota i.e. 5% of the vacancy in departmental cadre for the year 2016-17. The applicant secured 43 merit points whereas the 16 vacancies which were to be filled up under compassionate quota were candidates with 61 and above merit points. The applicant was informed accordingly by Respondent No. 2 vide letter dated 12.06.2017 (Annexure

R/4). It was further averred by the respondents that the legal heir certificates reveals that all the three daughters are married and the sons were major, the mother of the applicant had received terminal benefits and was in receipt of family pension hence the family cannot be claimed to be in distressed condition. The point system is applicable to all the candidates whose cases are considered in CRC all over India, hence the applicant too was considered on the same point system. And there is no illegality and arbitrariness in the case as alleged by the applicant.

4. This Tribunal has gone through pleadings of the parties, documents relied by them and the citations relied by parties. This tribunal had also heard Learned counsels for parties.
5. The applicant had earlier approached this Tribunal in OA No. 450/2016, the direction given by this Tribunal in the said case has not been strictly complied with in letter and spirit since break up points assigned in favour of the applicant under differed headings have not been disclosed either to applicant or to this Tribunal. Therefore the applicant has been deprived of scope to know as to whether the units assigned in his favour, as per the assessment made by the respondents, was proper or not. In the absence of the same, this Tribunal also finds that the said action of the respondents is arbitrary and unreasonable. It was expected from the respondents that they should have maintained transparency in the matter and ought to have come up with clear case regarding the different units assigned in favour of the applicant under different headings. Hence this Tribunal finds rejection order vide Annexure A/8 is illegal and cannot be sustained.
6. Accordingly the said impugned order is set aside. This Tribunal directs that the respondents should reconsider

the applicant of the applicant in accordance with the law after giving reasonable opportunity to the applicant to put forth his case before them. Thereafter the respondents shall communicate to the applicant about their action by issuing one speaking and reasoned order. The entire exercise be completed within three months from the date of receipt of copy of this order.

7. Accordingly the OA is allowed to the above extent, but in the circumstances there shall be no order as to cost.

(SWARUP KUMAR MISHRA)
MEMBER (J)