

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 040/00463 of 2016

Date of Order: This the Day of February, 2016

HON'BLE MR S.N. TERDAL, JUDICIAL MEMBER

Chiranjit Baro @ Chiranjit Boro
S/O- Late Naren Chandra Baro
@ Late Naren Ch. Baro
R/O-Garbhitor, Baragaon
P.O.Tarani, P.S.-Rangia
District-Kamrup (R), Assam

Applicant

By Advocate Mr.I.H.Saikia.

-Versus-

1. Union of India
Through the Secretary to the
Government of India,
Ministry of Communication & IT,
Department of Post, Dak Bhawan,
Sansad Marg, New Delhi-110001.
2. The Chief Post Master General
Assam Circle, Guwahati-1, Meghdoot Bhawan,
Panbazar
3. The Director of Postal Service (HQ), Assam Circle,
Guwahati-1, Meghdoot Bhawan, Panbazar
4. The Superintendent of Post Office,
Nalbari-Barpeta Division,
P.O. P.S. & District-Barpeta,
Assam, PIN-781301
5. The Inspector of Posts Offices,
Barpeta Sub Division,
P.O. P.S.& District- Barpeta,
Assam, PIN-781301

6. The Circle Relaxation Committee,
represented by the Director of Postal Service,
Assam Circle, Guwahati-1
7. Smti Ruma Paul
W/O Late Prasanta Kr. Paul
Ex-MTS, HRO, Silchar RMS 'S'Dn.
P.O.-Silchar, P.S.Silchar
District-Cachar, PIN-788001
8. Sri Ankur Jyoti Das
S/O Late Bijay Kr.Das
Ex-MTS, SRO Tinsukia in RMS 'S' DN
P.O.-Tinsukia, dist-Tinsukia, PIN-786125

Respondents

By Advocate Mr.S.K.Ghosh, Addl..C.G.S.C.
Ms.Usha Das, for Respondent No.7.

Date of Hearing: 22.2.2018

Date of Order: 28.02.2018.

O R D E R

Per Mr.S.N.Terdal, Judicial Member:

This original application is filed praying for the following reliefs:-

”8.1. That this Hon’ble Tribunal may be pleased to pass an order setting aside and quashing the speaking order dated 28.04.2016 under Memo No.Vig/5/XI/2016 rejecting the prayer of the applicant.

8.2 That the Hon’ble Tribunal may be pleased to pass an order setting aside and quashing the recommendation dated 08.05.2015, 07.03.2014 and 20.08.2013 of the Circle Relaxation Committee.

8.3 That this Hon’ble Tribunal may be pleased to pass an order directing the Circle Relaxation Committee to recommend the name of the applicant after providing actual marks as per guidelines of respondent authorities.

8.4 That this Hon'ble Tribunal may be pleased to pass an order directing the respondent authorities to appoint him immediately on compassionate ground."

2. Heard Mr.I.H.Saikia, learned counsel for the Applicant and Mr.S.K.Ghosh, learned Addl.C.G.S.C. for the Respondents. Perused the pleadings and all the documents produced by both the parties.

3. The relevant facts of the case are that the father of the Applicant Late Naren Chandra Baro died on 6.11.2008, while working as Assistant Post Master. The Applicant filed an application seeking appointment on compassionate ground in 2011. The Respondent authorities considered the case of the Applicant by placing before the concerned committee namely, Circle Relaxation Committee on three occasions. But however, in each of those occasions there were other candidates who had scored more points than the Applicant. As such, his case was not recommended by the Circle Relaxation Committee.

4. The Applicant submitted representation against non recommendation by the Circle Relaxation Committee and non appointment on compassionate ground. He did not get reply to his representation. Being aggrieved, the Applicant filed an Original Application No.95 of 2016. This Tribunal, vide order dated 23.03.2016

directed the Respondents to consider his representation and pass a speaking order. Pursuant to said direction, the Respondents passed the speaking order dated 28.4.2016 which is under challenged in this O.A.

5. At the time of hearing, the learned counsel for the Applicant confined his claim with respect to the points given to him on account of number of minor children. The said count is regarding the minor children. If the minor children were to be more than 3, the candidate would get 15 points. If the minor children were to be 2, the candidate would get 10 points. If the minor children were to be 1, the candidate would get 5 points. If the minor children were to be none, the candidate would get '0'.

The relevant portion of the chart is reproduced below:-

<u>"(g) No.of Minor children</u>	<u>Points</u>
(i) 3 and above	15
(ii) 2	10
(iii) 1	5
(iv) None	0"

6. With respect to the said count, the Applicant is claiming that he would get 10 points taking into account that he was minor and that his younger brother was also minor at the relevant time whereas the

Respondents had given him 5 points counting the minor children at the relevant time as only 01. That is, they have treated the Applicant as major and his younger brother is taken as minor.

7. The counsel for the Applicant submits that the Respondents have given him 61 points while considered his case in the year 2015. If taking the number of minor as 2 and giving him 10 points on that count then the total points would become 66 points. In 2015 Respondent No.8 who has secured 64 points has been appointed. He therefore, submits that if his claim is considered then he should have been appointed instead of Respondent No.8.

8. The question therefore that arises in the present case is as to whether the Applicant was minor as on the date of consideration. There is no certainty about the date of birth of the Applicant. In his Matriculation Certificate, the Date of Birth of the Applicant is recorded as 5.2.1990. In his application filed by him before the authorities, he has stated that his Date of Birth is 5.2.1990. By taking his date of birth as 5.2.1990, as on the death of his father on 6.11.2008, he would be more than 18 years of age even on the date of death of his father.

At the time of hearing, the learned counsel for the Applicant stated that the Date of Birth recorded in the Matriculation Certificate and his application referred to above, is not correct. He submits that his date of birth is 5.2.1992 as per the Birth Certificate issued by the Government of Assam. The counsel for the Applicant further stated that in view of the statement made by the Respondents in the written statement at Para-6 to the effect that he was drawing Family Pension until 04.2.2017 on which date attained the age of 25 years, he should be treated as minor as on the date of the death of his father.

9. The counsel for the Respondents submitted that as per his own declaration as well as his Matriculation Certificate the Applicant was major even as on the date of the death of his father and the said Date of Birth Certificate issued by the Government of Assam, was issued not at the time of the Birth of the Applicant but after 18 years of his alleged date of birth in the year 2008, as such, the Date of Birth as recorded in the Matriculation Certificate and as stated by the Applicant in his application was taken into account by the authorities. On that basis he was given only 5 points taking into account the family of the Applicant was having only one minor child.

10. The counsel for the Applicant further submitted that in para 4.13 of his application he has stated about the total number of points he should obtain on various counts and the Respondents have not specifically denied the calculations made by the Applicant in their written statement with respect to para 4.13 of his application. As such in view of the law laid down by the Hon'ble Supreme Court in the case of **Naseem Bano, Vs. State of Uttar Pradesh and others 1993 Supp (4) SCC 46** his averments in Para 4.13 should be taken as having not denied and therefore, accepted, and his application be allowed.

11. But however, in view of various facts narrated above regarding the Date of Birth of the Applicant the assessment made by the Respondents and treating the Applicant as major and assigning only 5 points to the Applicant on the above stated count of number of minor at the relevant time and the impugned order dated 28.04.2016 cannot be faulted.

11. In the result O.A. is dismissed. No order as to costs.

(S.N.TERDAL)
JUDICIAL MEMBER

LM