

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No. 478/2012

Reserved on : 16.12.2019
Pronounced on: 20.12.2019

Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhaya, Member (A)

Chouth Mal Chakradhari S/o late Shri Dwarika Lal Potter,
aged about 27 years, Resident of Village Bajranggarh, Tehsil
Kishangarh, District Baran (Rajasthan).

...Applicant.

(By Advocate: Ms. Neelam Khandelwal for Shri D.P. Pujari)

Versus

1. Union of India through the Chief Postmaster General,
Rajasthan Circle, Jaipur.
2. The Assistant Director (Staff) Office of Chief Postmaster
General, Rajasthan Circle, Jaipur.
3. Sr. Superintendent of Post Office, Kota Division, Kota.

...Respondents.

(By Advocate: Shri Rajendra Vaish)

ORDER

Per: A. Mukhopadhaya, Member (A):

The brief facts of this Original Application, (OA), are that consequent upon the death of the father of the applicant who was serving as a Gramin Dak Sevak, (GDS), with the respondent Department on 03.01.2011, the applicant applied for compassionate appointment in place of

(2)

his father. This application was however rejected by the respondents vide impugned order No. Rectt/4-118/2011 dated 26.04.2012; (Annexure A/1). In the impugned order, the respondents justified the rejection of the applicant stating as follows:

"Family has paid discharge benefits of Rs.1,20,053/-. Family owns house and agricultural land. Family has income of Rs.2916/- per month. Family has no liabilities like education and marriage of daughter.

The CRC, after making objective and comparative assessment of the financial condition and liabilities of the deceased families, recommended the cases which were found hard and deserving in comparison to other cases and the case of the applicant was not recommended as it was not found comparatively hard and deserving in view of the Directorate latest guidelines on the subject issued vide letter no.17-17/2010-GDS dated 14.12.2010 & 09.03.2012. The decision of the CRC may please be communicated to the applicant accordingly."

2. The applicant contends that contrary to the above mentioned assertions in the impugned order dated 26.04.2012, (Annexure A/1), the value of the applicant's family house is only Rs.50,000/- as evidenced by a certificate issued by the Sarpanch of the Gram Panchayat, Bajranggarh on 27.01.2011, (Annexure A/5), and that the applicant, who has only two bighas of agricultural land without any substantive income from the same, (para 4 of OA refers), and has the full liability of maintaining his family

(3)

despite being unemployed, [para 5(f) of OA refers), is eligible for such appointment as per rules. Therefore, being aggrieved by the action of the respondents, he has filed this OA seeking the following relief:-

(i) By an appropriate order or direction, the order dated 26.04.2012 (Annex. A/1) be declared as null and void and be quashed and set aside.

(ii) By an appropriate order or direction, the respondents be directed to give appointment to the applicant on compassionate ground on suitable post.

(iii) Any other order which appeared to be just and correct in the interest of justice be also passed.

3. In reply, the respondents point out that as demonstrated by the impugned order itself, the Circle Relaxation Committee, (CRC), considered the applicant's case along with 39 other cases on 20.04.2012 and after a balanced and objective assessment of the financial condition of the family taking into account its assets and liabilities and including other considerations like discharge payments received by the family as well as factors like earning, size of family, age of children and marriage and education or other essential needs, the CRC did not find the case of the applicant to be as deserving **"in comparison to other cases"**; (Annexure A/1, the impugned order refers). Consequently, **"the case of the applicant was not**

(4)

recommended as it was not found comparatively hard and deserving” in view of the guidelines referred to in the impugned order. The respondents contend that compassionate appointment is not a right citing the Hon’ble Supreme Court judgment dated 23.05.2012 in Civil Appeal No.6224/2008 in **Union of India and Another vs. Shashank Goswami and Another**, (Annexure R/3), which ruled as follows:

“There can be no quarrel to the settled legal proposition that the claim for appointment on compassionate ground is based on the premises that the applicant was dependent on the deceased employee. Strictly, such a claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. Appointment on compassionate ground cannot be claimed as a matter of right. As a rule public service appointment should be made strictly on the basis of open invitation of applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis and not to confer a status on the family. Thus, applicant cannot claim appointment in a particular class/group of post. Appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.”

(5)

4. As regards the valuation of his house being disputed, the respondents contend that apart from the value of this particular asset, there were, in the case of the applicant, **“many grounds on which his case was not found fit for recommendation”**. In this connection, they state that the applicant being a 27 year old person **“can earn enough to look after his small family...”**; [para 5(f) of reply to OA refers].

5. The respondents also aver that the relevant scheme for compassionate appointment, (Annexures R/1 and R/2 refer), has been scrupulously adhered to in making the above detailed assessment before rejecting the applicant's case and pray that the OA, being devoid of merit, be dismissed.

6. Heard the learned counsels for the applicant and the respondents and perused the material available on record. Learned counsels for the applicant and the respondents reiterated the arguments given in the OA and the reply to the same respectively.

7. In addition, learned counsel for the applicant, drawing the court's attention to para 6 of the compassionate appointment scheme for engagement of GDS, (Annexure

(6)

R/2), pointed out that the guidelines prescribed specifically provide for the period of consideration of deserving cases to be kept as three years whereas the applicant's case has only been considered against available vacancies once.

8. Per contra, learned counsel for the respondents pointed out, vis-a-vis the same guidelines as referred to by the applicant's counsel, that this period of three years only applied to "**deserving cases**". He pointed out that the applicant had not raised the issue of his case being considered only once in his pleadings nor had he sought the specific relief of having his case considered again and therefore in the absence of pleadings and seeking such relief, the applicant cannot press for the same at the stage of arguments. Respondents' counsel also argued that the application for having his case considered again was also not admissible in the present case as it had been clearly established by the CRC findings that the applicant's case was less deserving than that of many others amongst the 39 candidates considered in terms of the stipulated guidelines at Annexures R/1 and R/2. In addition to the citation, [Union of India vs. Shashank Goswami (supra)], learned counsel for the respondents cited the judgment of the Apex Court in the case of **State of Haryana vs. Ankur Gupta** (2004) 1 SCT 65 and emphasised that, as observed by the

(7)

Apex Court at para 7 of this judgment, it has already been observed in an earlier judgment of the Hon'ble Supreme Court in **State of Haryana vs. Rani Devi** 1996 (4) SCT 63 in cases of compassionate appointment that in such cases, **"the object is to enable the family to get over sudden financial crises"**. He pointed out that such a condition could not be said to exist almost 9 years after the death of the employee as the family of the deceased employee had obviously sustained itself for this whole period. He also argued that in a catena of judgments, the Hon'ble Supreme Court had reiterated that compassionate appointment, not being a matter of right, is governed by the policy framed by the Government and that such policy had been scrupulously adhered to in the present case.

9. In this case, a perusal of the impugned order dated 26.04.2012, (Annexure A/1), and the entire record, validate the arguments preferred by the learned counsel for the respondents. The applicant has indeed not preferred any specific pleadings for his case to be considered again by the respondents. Given this lack of pleadings as well as the law laid down by the Hon'ble Supreme Court of India in the cases cited and detailed above, we find that there is no reason to consider the impugned order dated 26.04.2012, (Annexure A/1), as being untenable or unreasonable in

(8)

terms of either established law and rules or indeed the relevant policy prescribed for compassionate appointment.

10. Consequently, the OA is found to be devoid of substance and merit and is therefore dismissed.

11. There shall be no order on costs.

(A.Mukhopadhaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

/kdr/