

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.685/2013

Dated this Thursday the 19th December, 2019

CORAM: RAVINDER KAUR, MEMBER (J)

Shri Satish Vithalrao Banatt
S/o. Late Vithalraoji Rajaram Banait
Age 34 years, Postal Assistant,
Jalalkheda S.O. Nagpur MFL Divn,
Nagpur. Residing at Plot No.68,
Gadgenagar, Near Nimblkar Jyoti
Primary School at PO Ashta Flour
Mill, Nagpur - 440 009.

... **Applicant**

(By Advocate Shri Vicky Nagrani)

VERSUS

1. (Through) Assistant Director
General Postal Services
(Recruitment) Office of the
Chief Postmaster
General Maharashtra Circle,
1st Floor, Old GPO Building,
Fort, W.H. Marg, Fort,
At PO Mumbai GPO 400 001
2. Sr. Supdt of Post Offices,
Nagpur Moffusil Division,
At Post Nagpur - 440 012
3. Postmaster General
Nagpur Region,
At PO Nagpur - 440 010.
4. Director General (Posts)
Department of Posts,
Dak Bhavan, parliament Street,
At PO New Delhi - 110 001. ...

Respondents

(By Advocate Shri V.B. Joshi)

O R D E R

Per: Ravinder Kaur, MEMBER (J)

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) This Hon'ble Tribunal be pleased to call for the records of the case and after perusal of the same pass appropriate order in the interest of justice.

(b) Quash and set aside letter dated 10.11.2011 (Exh A1) issued by Respondent No.1)

(c) Hold and declare that 2nd CRC meeting held on 7.10.2011 (Exh.A1 Para 2) considering 13 cases was not in accordance with DG Posts New Delhi letter dated 20.01.2010 (Exh A5)

(d) Quash and set aside minutes (Exh.A6) dated 07.10.2011.

(e) Direct respondents to reconvene CRC meeting within one months for considering applicants case by observing point system and declare result.

(f) Liberty be given to applicant if decision of such fresh CRC if so advised.

(g) Cost of OA be provided for."

2. Late Shri V.R. Baneit, the father of the applicant was working as Postal Assistant, Jalalkheda Post Office, Nagpur Division when he died on 22.04.1993. He is survived by his widow

and two sons i.e. the present applicant and Shri Neelkanth. On 04.08.1993 his widow applied for compassionate appointment for the present applicant. However, since the applicant was aged 14 years (minor), the respondents directed the applicant to apply afresh after he attains the age of majority. Thereafter on 23.03.1998, the applicant on attaining the majority applied for compassionate appointment. The case of the applicant was considered by the respondents for the first time in the year 2003 alongwith 33 other candidates and was rejected for want of vacancy vide order dated 31.07.2006 (Annex A-8). This order was challenged by the applicant before this Tribunal vide OA No.464/2007. The Tribunal remanded back the matter to the respondents vide order dated 26.11.2010 to reconsider all the points raised by the applicant in his representation dated 19.08.2006. In compliance of the directions of this Tribunal, the respondents rejected the case of the applicant vide order dated 10.10.2011 (Annex A-1).

2.1 The aforesaid order has been challenged by the applicant vide present OA on the grounds that the claim of the applicant for compassionate appointment has been rejected illegally and

arbitrarily. The order is bad in violation of the order dated 26.11.2007 passed by this Tribunal. Further that the Circle Relaxation Committee (CRC) examined the case of the applicant only once which is illegal and amounts to violation of provisions of DoPT OM dated 30.05.2013. The above facts have been noted as per the synopsis filed by the Advocate Shri Vicky Nagrani as the pleadings in the OA lack in clarity.

3. The respondents in their reply affidavit stated that the widow of the deceased employee did not apply for employment on compassionate grounds but requested to reserve a post for such appointment to her elder son Satish i.e. the present applicant till he attains majority. The present applicant applied for said employment in 1998 and the case was submitted by the office of PMG, Nagpur to the office of CPMG, Maharashtra Circle in October, 2000. After completion of all the formalities, the applicant was considered for the post Assistant cadre. In all there were 33 applications including that of the applicant which were considered for such employment. However, as the CRC could not recommend the cases more than the vacancies available for relaxation, as such, all these 33 cases were not recommended

by the CRC and therefore, there was no discrimination against the applicant. The respondents have placed reliance on Annex R-1 dated 01.11.2003 and Annex R-3 dated 11.05.2001 to this effect.

3.1 The respondents have admitted that they were issued directions vide OA No.464/2007 referred above to dispose of the representation dated 19.08.2006 of the applicant. Accordingly special meeting of CRC on 07.10.2011 was conducted. All the 33 cases referred above were again considered in the meeting. It was found that in 12 cases, the family of the deceased Government servant had received lesser pensionary benefits but were having more liabilities than the applicant but they were also not recommended by the CRC as on 05/06.09.2002 for compassionate appointment. Thus the case of the applicant was not found to deserving case for reconsideration ignoring all other 33 cases. It is stated in these circumstances, there is no infirmity in the impugned order.

4. I have heard Shri Vicky Nagrani, learned counsel for the applicant and Shri V.B. Joshi, learned counsel for the respondents at length and perused the material available on record.

5. It is observed that vide earlier OA No.464/2007, the applicant had challenged the order dated 31.07.2006 whereby his request for compassionate appointment was turned down. In para 4 of its order, the Tribunal made the following observations:-

"4..... Thereafter when the son became major in November, 1997, she requested for his consideration for appointment on compassionate grounds. It was accordingly considered by the Office of Senior Superintendent Nagpur and after considering various aspects the case was found fit and was recommended for compassionate appointment to the office of Chief Post Master General, Maharashtra Circle, Mumbai."

In para 6 also the Tribunal held as follows:-

"6. The other grounds mentioned by the respondents in the impugned order that the family got an amount of Rs.1 lakh as retiral benefits are also not convincing and hence rejected. The respondents have also not pointed out any grounds to indicate as to why and how the family was not in indigent condition on the sudden death of the sole bread winner of the family."

6. After the directions vide this OA, the case of the applicant was considered by the respondents and vide order dated 10.10.2011 (Annex A-1) rejected the claim of the applicant for compassionate appointment.

7. Learned counsel for the applicant has submitted that this order is not in compliance with the directions/observations made by this Tribunal in its earlier order in OA No.464/2007.

8. On the other hand, learned counsel for the respondents has submitted that there is no infirmity in the impugned order as the case of the applicant was considered in terms of directions of this Tribunal vide order dated 26.11.2010 in OA No.464/2007. The case of the applicant could not be recommended for compassionate appointment as out of all the 33 cases including that of the applicant considered by the respondents, there were 12 cases in which the family of the deceased employees had received less pensionary benefits than the present applicant but had more responsibilities and were more deserving but even their cases were not recommended for compassionate appointment.

9. I have carefully gone through the impugned order issued by the respondents in pursuance to the directions in OA No.464/2007. It is observed that Special Circle Relaxation Committee was constituted and the case of the applicant was considered alongwith 32 other cases. The Committee observed that when the case of the applicant was considered in 2002 alongwith 32 other cases, there were 12 such cases where the family of the deceased employees had received

lesser pension and pensionary benefits than the present applicant and they had more responsibilities but still their cases were also rejected. I am conscious of the fact that while ignoring those 12 cases, if the applicant had been recommended for compassionate appointment, it would have been prejudicial to all of them who were more deserving. This situation would have amounted to violation of principles of natural justice.

10. Besides, as pointed out by learned counsel for the respondents and not disputed by the applicant's counsel, the applicant is aged around 40 years and is a married man. He is working as medical representative. His father expired on 22.04.1993 i.e. more than 25 years ago. He is not in the requirement of compassionate appointment for survival as he cannot be said to be in the state of penury or without any means of livelihood.

11. I am conscious of that the objective of the scheme for compassionate appointment is to grant appointment to a dependent family member of a Govt. servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of

livelihood, to relieve the family of the Govt. servant concerned from financial destitution and to help it to get over the emergency. As per the scheme, compassionate appointments can be made upto a maximum of 5% of vacancies falling under Direct Recruitment quota in GP 'C' posts. With a view to ensuring the most acute and deserving cases are required to be accommodated within the 5% quota of vacancies available for this purpose.

12. The compassionate appointment is not a vested right. It is only a welfare scheme for the help of the family of the deceased employee in the hours of financial distress due to sudden death.

13. In the facts and circumstances, we do not find any infirmity in the impugned order. Hence the Original Application is devoid of merits and is hereby dismissed. No costs.

(Ravinder Kaur) \ \ ' ' \
Member (J)

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