

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Filing No. 599 of 195.4.99

Date of Decision 7.5.1999

Shri Pawan Kumar Gupta Applicant(s)

(2)

Shri B.B. Raval

Advocate for the Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

None

Advocate for the Respondent(s)

C O R A M: (Single/Division)

Hon'ble Shri R.K. Ahooja, Member(A)

Hon'ble Shri -----

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes/No

2. To be referred to the Reporter or not? Yes/No

R.K.
(R.K. AHOOJA)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Filing No. 599 (CA1083/99)
dt. 15.4.1999

New Delhi, this the 7th day of May, 1999

(3)

Hon'ble Shri R.K. Ahooja, Member(A)

Shri Pawan Kumar Gupta
S/o Late Shri K.L. Gupta
R/o 119/396, Aggarwal Farm
Mansarovar, Jaipur. Applicant
(By Advocate: Shri B.B. Raval)

Versus

Union of India through
1. The Secretary
Ministry of Home Affairs
Government of India
North Block, New Delhi

2. The Director
Intelligence Bureau
Ministry of Home Affairs, GOI
North Block, New Delhi Respondents

O R D E R

In the circumstances of the case, office
objections are overruled. Jurisdiction is accepted. OA
may be registered.

The applicant was offered an appointment on
compassionate ground as a Lower Division Clerk (LDC)
consequent to the death in harness of his father who was
working as a Central Intelligence Officer, at SIB, Aligarh
vide letter dated 30th December, 1987. The offer was
accepted by the applicant and he joined the Intelligence
Bureau as an LDC. He states that on coming to know that a
person with his qualification, i.e. Graduate with
Mathematics and Science, was eligible for a higher post of
Assistant Central Intelligence Officer or a Junior
Intelligence Officer he made representations to the
authorities repeatedly but the same were rejected on the
ground that the right to compassionate appointment having
been once exercised, he could not now ask for a higher
appointment. Aggrieved that the respondents were

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discriminating against him inasmuch as certain other persons similarly situated were offered higher appointment as Assistant Central Intelligence Officer and equivalent posts, he filed an O.A. No.681/93 before this Tribunal. The same was disposed of by an Order dated 3.9.97 with the following directions:-

- "(a) That the respondents shall consider the case of the applicant for placement in the higher grade of either in ACIO-II or JIO-I subject to his entitlement and fulfilment of all conditions laid down.
- (b) This shall be done within a period of four months from, the date of receipt of a certified copy of this order and the applicant be communicated accordingly.
- (c) In case the appeal of the applicant is considered favourably, consequential benefits like fixation of seniority shall be done only in terms of rules laid down on the subject.

2. The review application filed by the respondents against order of this Tribunal was dismissed. The respondents, however, passed the impugned order dated 22.4.98 ostensibly in compliance with the directions of this Tribunal wherein his plea was rejected on the ground that he did not have the requisite educational qualification for appointment as Central Intelligence Officer Gr.II at the relevant time and further that appointment to the rank of Junior Intelligence Officer had been stopped since 1.9.86. The applicant filed a contempt petition alleging that the respondents had not complied with the directions of this Tribunal but the same was dismissed.

3. The applicant submits now that the grounds adduced for rejecting his case were not valid inasmuch as the requirement of 55 per cent of minimum marks for

3

recruitment of Central Intelligence Officer was introduced much after 1987 and that he was perfectly eligible for appointment to the post of ACIO-II in 1987.

(A)

4. I have heard Shri B.B Raval, learned counsel on admission. The directions of this Tribunal in O.A.No.681/93 were complied with by the respondents by considering his case. The contempt petition filed by the applicant alleging non-compliance was also dismissed by this Tribunal. I also find that the applicant has no case whatsoever for any further consideration.

5. The Hon'ble Supreme Court has held in Haryana State Electricity Board v. Nahesh Tanwar, JT 1996(2) SC 254 that compassionate appointment is not a vested right which can be exercised any time in future and it cannot be claimed and offered whatever the lapse of time and after the crisis is over. The Supreme Court has laid down in Jagdish Prasad v. State of Bihar SLR 1996(1) SC 7 that the object of appointment of a dependent is to meet the unexpected hardship and distress caused to the family by sudden demise of the earning member. The immediate crisis in respect of the family of the applicant had been met by his compassionate appointment in 1987. This Tribunal has also held in O.A. No. 1972/95 (150 Swamy's C.L. Digest 1997) Mool Chand v. Union of India and Others that where the applicant had secured the appointment of Peon on the death of his father he could not later claim the post of Lower Division Clerk on the basis that he fulfilled the minimum educational qualification for the latter post. The compassionate appointment is in relaxation of the normal recruitment rules and its purpose is not to restore the family to its old circumstances during the life time

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of the deceased Govt. employee. It is a welfare measure aimed at obviating the immediate distress of the family. The applicant undoubtedly has a right to strive for improving the circumstances and prospects. But this he has to do on his own merit and his performance in service. The object of his initial appointment was only to help out the family placed in dire straits due to the death of applicant's father. The objective was not to place the applicant in a position comparable to the status and position of his father.

(5)

6. The learned counsel argued before me that the applicant is entitled to equal treatment and the respondents cannot give better job to one person and a lower one to another even though the circumstances may be similar. In my view there can be no ground for alleging discrimination in what is essentially a matter of relaxation of rules. Each case of compassionate appointment has its own aspects, facts and circumstances. The applicant was offered in 1987 what could be arranged and it was accepted by him. If some one else latter got a better opening, it has to be assumed that it was in the facts and circumstances of the case. No opinion can be expressed by the Tribunal on that aspect more particularly when neither such persons are parties before the Tribunal nor the relevant facts are detailed before me.

7. I, therefore, find no ground whatsoever for interference as no *prima facie* case is made out. The application is accordingly dismissed at the admission stage itself.

R.K. Ahuja —
(R.K. Ahuja)
Member (A)

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