

(19)

Central Administrative Tribunal  
Principal Bench  
...

C.P. No. 225/95  
in  
O.A. No. 1083/94

New Delhi, this the 10<sup>th</sup> day of January, 1996

Hon'ble Shri B.K. Singh, Member (A)  
Hon'ble Dr. A. Vedavalli, Member (J)

Shri Gulab Singh son of Shri Ranjit Singh  
Retired Postman Karol Bagh, New Delhi under  
Delhi Postal Circle, New Delhi and

Shri Hari Singh son of Shri Gulab Singh.  
(By Shri Sant Lal, Advocate)

...Petitioners/applicants

Versus

1. Shri S.C. Mahalik,  
Secretary,  
Deptt. of Posts, Dak Bhawan,  
New Delhi- 110 001.
2. Smt. Padma Balasubramanian,  
Chief Postmaster General,  
Delhi Circle,  
Meghdoot Bhavan,  
New Delhi- 110 001.

...Respondents

(By Shri M.K. Gupta, Advocate)

O R D E R

By Hon'ble Shri B.K. Singh, Member (A)

This Contempt Petition No. 225/95 was filed in  
the Tribunal on 16.10.1995. The Hon'ble Tribunal gave  
the following directions in its order dated 25th October,  
1994 in the Original Application No. 1083/94 titled

Shri Gulab Singh v/s. Union of India through the Secretary, Ministry of Communication; (2) The Chief Postmaster General, Delhi Circle, New Delhi and (3) the Senior Superintendent of Post Offices, New Delhi Central Division, New Delhi. The direction which is sought to be made the subject matter is extracted below:-

"In the peculiar facts and circumstances of this case, we direct the respondents to consider the case of compassionate appointment of the son of the applicant, irrespective of the fact that on the date of actual retirement of the applicant he was more than 55 years of age and in accordance with rules, within a period of four months."

On notice the respondents filed their reply along with an affidavit stating therein that they have complied with the directions given by the Tribunal. They have also enclosed Annexure R-I giving details of the action taken by them for calling Selection Committee meeting consisting of four senior officers of the department to re-consider the case of the applicant as per direction of the Tribunal although the same had been rejected taking into consideration the financial position of the applicant and the facts and circumstances involved in his case. He was not given employment in view of the various conditions stipulated in the O.M. Dated 30.6.1987. This circular stipulates that the

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competent authority has to be satisfied that the family is indigent and will face great distress and hardship if an appointment is not given to the ward. They have further stated in their reply that since one of the sons was already employed when the father was retired, the family was not considered in indigent condition and as such compassionate appointment was not offered to him. The alleged contemner Shri Padma Balasubramanian, Chief Postmaster General, Delhi Circle has also given the reasons for delay in filing the reply. The delay was in calling the meeting of the senior officers to consider the case of the applicant for compassionate appointment and he has tendered un-qualified apologies for the delay on their part which according to them was not wilful or intentional.

The direction of the Tribunal is to re-consider the case of the applicant "in accordance with rules within a period of four months". The rule position has been clarified by the Hon'ble Supreme Court in two cases i.e. L.I.C. of India v/s. Smt. Asha Ramchandra Arbora reported in 1994(1) Scale P. 748 and Umesh Kumar Nagpal V/s. State of Haryana reported in JT 1994(3) SC 525. In both these cases, the proposition of law that has been laid down is that all recruitment to public service has to be made through open advertisement and on merit. In case of death in harness a person can be appointed

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exception to the rule if the family is in indigent circumstances and if no compassionate appointment is granted, they would be in the streets and would be in distress and hardship. The Hon'ble Supreme Court has regretted the tendency of the departmental heads in Ministries/departments who have been granting compassionate appointments in a mechanical manner distorting even the judgements of Hon'ble Supreme Court in Sushma Gosain's case. If there is no emergency and the appointing authority is satisfied to that effect after taking into consideration the facts of a case, he can refuse the compassionate appointment as the same is not a vested right to be claimed by anyone. In the instant case, it is clear that the direction was only to consider the case for compassionate appointment in accordance with the rules. The respondents have re-considered the matter though they had rejected the case of the applicant previously but in the light of the direction, they held a <sup>meeting</sup> ~~meeting~~ of the Committee consisting of four senior officers and they were not satisfied <sup>on the basis of</sup> ~~with~~ the materials available with them that it is a fit case for compassionate appointment.

In the light of this, the orders of the Tribunal have been complied with. A bonafide trifling deviation <sup>in not adhering to time schedule</sup> ~~going the timing~~ will not make the party guilty of wilful disobedience of the orders. This follows from the maxim



deminimis non-curat lex. This has been made clear even under section 13 of the Contempt of Courts Act wherein it is laid down that a contempt shall be punishable only if the court is satisfied that the contempt is of such a nature that it substantially interferes or tends substantially to interfere with due course of justice. The slight deviation in regard to the timing of the implementation of the order is a trifling matter and cannot be made a subject matter of contempt in the present proceedings.

We are satisfied that no case is made out for holding the respondents guilty of non-compliance of the order and accordingly the notices issued are discharged and the record is consigned to the record room.

(Dr. A. Vedavalli)  
Member (J)

  
( B.K. Singh )  
Member (A)

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