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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2375 of 2000

New Delhi, this the 2nd day of August, 2001

**HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)**

1. Shri Raghu Nath Singh  
S/o Shri Sudh Singh  
Retired Postal Assistant (OTBP)  
New Delhi GPO.

2. Shri Ravinder Kumar  
S/o Shri Raghu Nath Singh  
R/o Jahangirpuri,  
Delhi-110 033.

-APPLICANTS

C/o Shri Sant Lal, Advocate  
C-21(B), New Multan Nagar,  
New Delhi-110056.

(By Advocate: Shri Sant Lal)

Versus

1. The Union of India through the Secretary,  
Ministry of Communications, Department of  
Posts,  
Dak Bhawan,  
New Delhi-110 001.

2. The Chief Postmaster General,  
Delhi Circle,  
Meghdoot Bhawan,  
New Delhi-110 001.

3. The Chief Postmaster,  
New Delhi GPO,  
New Delhi-110 001.

-RESPONDENTS

(By Advocate: Shri Rajeev Bansal)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Shri Raghu Nath Singh, applicant No.1 was an employee of the respondents. He made an application seeking voluntary retirement on medical grounds as he was physically handicapped as he was not in a position to continue in service. He made a request vide letter dated 22.12.1998 for being medically examined by a duly constituted medical board so that he may be given retirement on medical grounds. Since no action was taken

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thereupon, so a reminder was sent vide letter dated 20.1.99 but still the respondents slept over the matter and referred the case of the applicant to the CMO of Dr.RML Hospital vide letter dated 20.8.99 upon which the Medical Board was constituted and applicant No.1 was medically examined as on 4.10.99. Consequent to the findings of the Medical Board, the applicant was retired on 16.11.1999 on medical grounds.

2. The applicant No.1 then made an application seeking appointment of his son Shri Ravinder Kumar, applicant No.2 on compassionate grounds as applicant No.1 had retired on medical grounds. The applicant No.2 claims that he is entitled for appointment on compassionate grounds as per the rules and scheme for compassionate appointment as promulgated by the Government of India, Department of Personnel & Training.

3. The respondents are objecting to the relief claimed by the applicant No.1. They have filed their counter-affidavit. The main objection of the respondents is that since the applicant No.1 had retired after attaining the age of 55 years so this scheme is not applicable in case of applicant No.1 for seeking appointment on compassionate grounds for applicant No.2.

4. I have heard the learned counsel for the parties and gone through the records of the case.

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5. The short question in this case is whether the applicant No.1 who had made an application on 22.12.1998 seeking retirement on medical grounds when he was much less than 55 years of age and the department had taken about a period of 8 months to refer the case of the applicant No.1 to the medical board and he had been formally retired on 16.11.1999 after about one month after the applicant No.2 had attained the age of 55 years so in such like circumstances this scheme of compassionate appointment of applicant No.2 should be extended to the applicant No.2 or not particularly in view that the applicant No.1 had made an application much earlier than the attaining of age of 55 years.

6. I have considered this aspect and gone through the record.

7. As far the allegation of the applicant No.1 that he had made an application on 22.12.1998 and thereafter sent a reminder on 22.1.99 to get him medically examined by a Board and the department had taken about 8 months to refer the matter to the CMO of Dr.RML Hospital, but no reply has been given by the respondents to explain the delay, rather the respondents have stated that as far the averments as contained in para 4.1 and 4.2 of the OA are concerned, the same are matter of record. There is no explanation coming forward about the delay taken by the department for referring the case of the applicant No.1 to the Medical Board, rather during the course of arguments the learned counsel for the respondents has made a suggestion that if the department was causing the delay for referring his case

to Medical Board the applicant should have pursued the matter and he has further suggested that the applicant could have approached the Tribunal. The suggestion put forward appears to be quite strange because for moving one file from one table to another table the counsel for the respondents is suggesting that the employee should have come to the Tribunal for such a small matter. This is peculiar type of argument put forward by the respondents' counsel, which cannot be sustained. Since no explanation has came forward about the delay so it cannot be taken that the delay in retirement of the applicant cannot be attributed to applicant. Rather it is because of the callous delay on the part of the respondents the applicant had been made to retire just after crossing the age of 55 years.

8. Apart from that I may also mention that the medical report submitted by the hospital shows that the applicant was examined by the Board on 4.10.99 and on that very day, the Board had taken a decision after examining the applicant No.1 that he was not in a position to carry on his services so the fate of the applicant has been decided on 4.10.99 itself and by that time the applicant had not attained the age of 55 years. The department had no choice but to accept the report and had passed the necessary formal order retiring the applicant No.1 on medical grounds and for that purpose it was the department itself who had delayed the matter and for that purpose the applicant No.1 cannot be made to suffer though the counsel for the respondents has explained that

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the report of the Medical Board was sent to the respondents by the hospital authorities late but even for that reason the applicant cannot be made to suffer.

9. So in view of the peculiar facts of this case the technical objection of crossing of age of 55 years should not be allowed to come in the way of applicant rather the applicant No.2's case should be examined as per the scheme on compassionate appointment.

10. In view of the above, OA is allowed. The respondents are directed to consider the case of applicant No.2 for compassionate appointment in accordance with the scheme within a period of 3 months from the date of receipt of a copy of this order in accordance with the scheme so formulated. No costs.

  
( KULDIP SINGH )  
MEMBER(JUDL)

/Rakesh