



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(order reserved on 3.3.2021)**

M.A.No.060/1953/2018 &
O.A.No. 060/1496/2018

Chandigarh, this **8-3-2021.**

CORAM: **HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

1. Urmilla Devi w/o Sh. Brij Mohan Sharma, resident of VPO
Tandwala, Tehsil Barara, District Ambala.
2. Vajinder s/o late Sh. Brij Mohan Sharma, resident of VPO
Tandwala, Tehsil Barara, District Ambala.

Applicants

(BY ADVOCATE: Mr. P.K.Saini)

Versus

1. Union of India through Secretary to Government of India,
Ministry of Communication & Information Technology,
Department of Posts, New Delhi.
2. Assistant Director Postal Services (Staff) Haryana Circle,
Ambala-133 001.
3. Chief Post Master General, Haryana Circle, Ambala
Cantt(Haryana)-133 001.

(BY ADVOCATE: Mr. Sanjay Goyal).

.. Respondents

ORDER

HON'BLE MRS. AJANTA DAYALAN, MEMBER(A).



1. The present OA has been filed by the applicants Urmilla Devi and Vajinder seeking quashing of order dated 6.5.2016 (Annexure A-1) and order dated 23.9.2016 (Annexure A-2) whereby the claim of the applicants for compassionate engagement has been rejected. The applicants have further sought issuance of directions to the respondents to reconsider their case and to grant compassionate engagement to Vajinder as GDSBPM in Ambala Division. They have also sought directions to restrain the respondents from making direct recruitment against the post of GDS BPM.
2. Applicant no.1 is the widow and applicant no.2 is the son of Brij Mohan who was appointed in the respondents office in Ambala Division vide appointment order dated 1.12.1988. Brij Mohan expired on 13.12.2014 leaving behind his family in the state of penury. At the time of his death, applicant no.2 Vajinder was studying in Ist year and was not able to continue his study in Kurukshetra University, where he was enrolled for B.A. Ist year. Vajinder is 12th pass. He also has the diploma of Turner and basic Computer Course.
3. The case of the applicants is that despite the family virtually starving and both the sons of applicant no.1 doing work on daily wage basis and the family having received only nominal amount of Rs.1,17,465/- as ex.gratia gratuity severance amount, the case of the Vajinder for



compassionate appointment has not been considered favourably and the same has been rejected vide impugned order dated 6.5.2016. Their request for reconsideration has also been rejected vide letter dated 23.9.2016.

4. Further, the applicants have challenged the points awarded to them as according to them, it is against the policy being followed by the respondent department while considering cases of compassionate appointment.
5. The applicants have also stated that Brij Mohan was a heart patient and died due to heart attack. Huge expenses of about Rs. eight lakhs were spent on his treatment in different hospitals including PGI, which were incurred by relatives and friends.
6. The applicants have also averred that the reasons given by the respondents have no nexus with the object sought to be achieved and is violative of the policy for providing compassionate appointment.
7. The applicants have also relied upon the order passed in O.A.No.36/HR/2013 (**Jehro Devi & Another** versus **Union of India & Ors.**) decided on 9.9.2013 (Annexure A-11) in which the Tribunal had directed the respondents to consider the claim of the applicants in view of the policy/guidelines and after assessing the financial position of the family. The Tribunal had further directed the respondents that the post of GDS BPM be kept vacant as the Branch Post Office was running in the accommodation



provided by the family of the deceased employee. The applicants have also relied upon an order passed in O.A.No.060/00300/2014 (**Reetu** versus **Union of India & Ors.**) decided on 16.10.2014 (Annexure A-12).

8. The applicants have also stated that their claim has not been rejected on merits and rather, the same has been rejected on the ground that the son of the deceased employee was married.
9. In view of all above, the applicants have concluded that they deserve the relief sought in the OA and Vajinder, applicant no.2, needs to be granted compassionate engagement.
10. The respondents have contested the claim of the applicants. They have stated that Brij Mohan expired on 13.12.2014 leaving behind his wife and two sons. Applicant no.1 i.e. the widow Urmilla Devi applied for appointment on compassionate grounds for her younger son Vajinder who is applicant no.2 in the present OA. Urmilla Devi made an application dated nil requesting for engagement of her son Vajinder (Annexure R-2). The proforma of compassionate case as filled in and signed by Vajinder was sent to respondent no.3 on 5.3.2015. The same was returned back with some objections. Vajinder then submitted the case in new proforma (Annexure R-3). The case was finally completed on 2.3.2016 and was



considered by the Circle Relaxation Committee in its meeting held on 5.5.2016 for engagement of Vajinder.

11. The respondents have further averred that the case of Vajinder was considered on merits keeping in view of instructions issued from time to time. The same was rejected vide order dated 6.5.2016 and the applicant no.1 was informed accordingly(Annexure A-1).
12. The respondents have further submitted that Urmilla Devi vide application dated nil again requested for reconsideration of the case stating that points for pursuing study of her son Vajinder were not considered in the score card prepared (Annexure R-5).
13. The respondents have stated that the proforma for seeking compassionate appointment (Annexures R-2 & R-3) was duly signed by Vajinder. However, no proof of studying was supplied /annexed with the case. In the proforma, applicant no.2 showed his qualification as 10+2. He also declared that the facts given in the proforma are correct to the best of his knowledge (VI of the proforma). The respondents have argued that if Vajinder was studying at the time of death of his father, he should have filled in the relevant column and should have also annexed some relevant documents with the case. The respondents have stated that the applicant no.1 was accordingly informed vide letter dated 26.5.2016 (Annexure R-6).



14. Again, applicant no.2 submitted representation and the matter regarding his study was enquired into. The report of ASPO, Ambala City dated 9.8.2016 is annexed as Annexure R-7 which states that Vajinder was not studying at the time of his father's death. The same fact was mentioned by Vajinder in his application dated 27.6.2016 (Annexure R-8).
15. On the basis of this enquiry, a report was submitted to Circle Office vide letter dated 14.9.2016 (Annexure R-9). In response, SPO Ambala was directed by respondent no.3 vide letter dated 22.9.2016 (Annexure R-10) to inform the applicant that the benefit of marks of education could not be granted to him.
16. The applicant no.2 thereafter served a legal notice dated 3.12.2016 on the same point (Annexure R-11). This was replied to vide letter dated 5.1.2017 (Annexure R-12). Again, clarification was sought by the applicants through their counsel which was also clarified vide letter dated 15.2.2017 (Annexure R-14). The applicants again sent notice to respondent no.3 which was again replied vide letter dated 28.3.2018 (Annexures R-15 & R-16). Again, there was a notice which was also replied vide letter dated 25.1.2019 (Annexure R-17).
17. The respondents have stated that the OA has been filed in December 2018 i.e. after about two and a half years of passing of final order. The OA, therefore, deserves to be



dismissed on this ground alone as the same is barred by limitation in terms of Section 21 of the Administrative Tribunals Act, 1985.

18. The respondents have further stated that the case of applicant no.2 was considered by the Circle Relaxation Committee and rejection was informed vide letter dated 6.5.2016 (Annexure A-1). Once the case is considered and rejected, it cannot be considered again on the same grounds which were already duly considered by the Circle Relaxation Committee.
19. The respondents have further stated that as observed by the Apex Court, compassionate appointment cannot be claimed or granted as a matter of right or hereditary. It cannot be claimed as a fundamental or vested right. The guidelines of the Scheme require assessment of the financial condition of the applicant for such appointment. Further, as is clearly laid down by the Apex Court, offering of compassionate appointment as a matter of course irrespective of financial condition of the concerned family is legally impermissible.
20. The respondents have further stated that the case of the applicant no.2 was considered as per instructions contained in Directorate letters dated 9.10.2013 and 17.12.2015. The score card was calculated accordingly and was intimated to the applicant no.1 vide letter dated



6.5.2016 (Annexure A-1). The action of the respondents is quite legal and not harsh or discriminatory.

21. The respondents have admitted that as per instructions, EDBPM must be able to offer space to serve as agency premises for postal operations. As the husband of the applicant no.1 was engaged as GDS BPM, space for running of BO was provided by Brij Mohan.
22. The respondents have also stated that all the benefits given or due to be given and liability at the time of death were duly considered by the Circle Relaxation Committee and the case was decided accordingly.
23. The respondents have further stated that they have prescribed a system of allocation of points to various attributes based on a hundred point scale as circulated from time to time. These instructions are annexed as Annexure R-4. The case of the applicant no.2 was not found 'hard and deserving' in terms of these letters and the same was rejected on merits.
24. The respondents have also concluded that the judgments quoted by the applicants are not applicable in the instant case as these are distinguishable from the present case.
25. Finally, the respondents have stated that the very object of the Scheme for appointment on compassionate grounds is to help overcome the emergent crisis. The family has survived for a number of years after the death of the



deceased employee. As such, the family cannot be said to be in penury.

26. The respondents have also averred that if the applicant no.2 was married at the time of death of his father, then he cannot be dependent on his father and his case was not to be considered in the meeting of Circle Relaxation Committee held on 5.5.2016.
27. Finally, the respondents have concluded that in view of all above, there is no merit in the OA and the applicant no.2 does not deserve any relief. The OA is, therefore, liable to be dismissed.
28. I have heard the counsel of opposing sides and have also gone through the pleadings. I have also given thoughtful consideration to the entire matter.
29. I observe that Brij Mohan expired on 13.12.2014 leaving behind his wife and two sons. Both the sons are stated to be unemployed and the wife is a house wife. The family is stated to be in the state of penury. The widow applied for compassionate appointment of her younger son Vajinder immediately after the death of her husband Brij Mohan. The case of the applicant Vajinder was considered by the Circle Relaxation Committee in its meeting held on 5.5.2016. As per letter dated 6.5.2016, the score of the applicant no.2 was 30, whereas the minimum 36 merit points are required to consider the case as 'hard and deserving'. As the merit points obtained by applicant no.2



Vajinder were less than the minimum 36 points, the CRC rejected his case. Letter dated 6.5.2016 gives the details of points earned under each attribute.

30. The respondents have claimed that the points are given as per the policy for points devised by the Directorate vide its various instructions attached as Annexure R-4. The applicants have, however, challenged award of points under various attributes.
31. During arguments, the counsel for the applicants challenged award of points under four attributes. Firstly, according to him, under 'Agricultural land and house', the applicant no.2 should have earned three points as he had only two acres of land which was barren (Annexure R-2). The respondents have, however, stated that the land of the applicant no.2 was not barren as per the report of the revenue authority received in the case (Annexure R-16). Thus, in view of the clear report of revenue authority regarding land not being barren, I cannot accept the self declaration of the applicant no.2 regarding the land being barren. Therefore, the points awarded under 'Agricultural land and house' are found to be in order.
32. Next, the counsel for the applicant challenged the points given to him under the attribute of 'Family earnings'. The counsel for the applicants argued that family earnings have been shown as Rs.40,000/- (Annexure R-2). This is annual income. Hence it comes to less than Rs.3500/- per month.



Therefore, as per points system devised vide letter dated 14.12.2010 (Annexure R-4), the applicant no.2 should have earned six points as against two points awarded to him. I do find from the affidavit by applicant no.1 at Annexure R-19 that the family income was earlier Rs.40,000/-, but the same has since increased to Rs.65,000/- per annum as the income of Vajinder has increased from Rs.2500/- per month to Rs.4500/- per month. I find this affidavit by the applicant no.1 rather unusual as it does not help her case and seems to have been given without any occasion. The language used in the affidavit is quite legal though the applicant no.1 seems to be hardly literate. The affidavit is typed and the applicant has only signed it. I also find that the affidavit is dated 2.11.2015 and is thus almost one year after the death of Brij Mohan. Also, the affidavit does not indicate the period when the earning increased. As such, I do not consider it appropriate to take this affidavit into consideration for working out 'Family earnings'. I do find that additional four points under this head do appear justifiable to the applicant no.2 under this attribute.

33. Further, the counsel for the applicants has claimed ten additional points under the attribute 'Discharge benefits', as the applicant's family has received only Rs.1,17,465/-. The counsel for the applicants has claimed that as per points system given in letter dated 9.3.2012 (Annexure R-



4) for retiral benefits below Rs.1,50,000/- and above Rs.75,000/-, fifteen points are to be awarded. The respondents in their letter dated 28.3.2018 (R-16) have indicated that Discharge benefits also include SDBS amount of approximately Rs.40,000/-. This would take the total amount to over Rs.1,50,000/-. In such a case, the points awarded under this head would be 10 as per revised provisions given in letter dated 9.3.2012 and quoted by the applicants also. Even in that case, 5 additional points are to be awarded to the applicant no.2 under this attribute. Moreover, it is an open question if SDBS amount received is to be added to the Discharge benefits and if it is being done as a uniform policy. So, this issue relating to discrepancy of 10 points still remains an open issue.

34. Besides above, the applicant has claimed that he deserves point for pursuing his studies. The case of applicant no.2 is that he was studying at the time of his father's death, which he has to abandon due to death. The respondents have, however, rebutted by saying that the applicant no.2 in his own handwriting filled the proforma that he was not studying. He did not provide any proof for undergoing such study. Rather, he only showed his qualification as 10+2. I also observe from the proforma filled in by the applicant no.2 that the statement made by the respondents in this regard is correct. The argument of the applicant's counsel is that the applicant no.2 was undergoing studies. But there is not any whisper in the



proforma to this effect. If the information given by the applicant no.2 himself is incomplete or not accurate, the applicant no.2 cannot blame the department now. Also, the benefit of mistake committed by him cannot be given to him. Besides, I observe from the certificates filed by the applicant no.2 that he passed 10+2 in March 2010 and did training at National Council for Vocational Training from August 2012 to July 2014. But his attendance certificate from Kurukshetra University is for Session 2015-16 (Annexure A-6). It is, therefore, true that at the time of the death of his father, applicant no.2 was not studying. The respondents in their letter dated 9.8.2016 (R-7) have discussed this issue in detail and come to same conclusion. Later it is admitted by the applicant no.2 that he took admission in Kurukshetra University only in April 2015 - that is after death of his father(R-8). However, I note that the applicant was undergoing training at National Council for Vocational Training for two years which ended only in July 2014. The result for this was declared only in October 2014 and certificate could be obtained by him only in January 2015. As such, he could get admission in Kurukshetra University for B.A. course only the next session starting from April 2015. Thus, though technically the applicant was not studying at the time of death of his father in December 2014, but it could be argued that he was continuing his studies. So, even this issue is kept



open and needs to be addressed afresh with an open mind.
The matter needs to be reconsidered.

35. Thus, I observe that there seems to be some discrepancy in the marks given to the applicant no.2 with reference to the policy regarding point base system devised by the respondent department as placed before this Tribunal.
36. In view of all above, I direct the respondent department to reconsider the case of the applicant no.2 for compassionate appointment after verification of full facts and taking into account the policy being adopted by the respondent department regarding point base system. Let this exercise be completed within a period of three months from the date of receipt of certified copy of this order. Reasoned and speaking order be passed on the claim of the applicant no.2 in view of the observations made in this order. The order so passed shall be communicated to the applicants.
37. The OA is disposed of in the above terms. Pending MA also stands disposed of accordingly.

(Ajanta Dayalan)
Member (A)

Place: Chandigarh
Dated: -3-2021.

KKS