

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No. 559 of 2004

Dated: This the 26th day of May, 2004

HON'BLE MRS. MEERA CHHIBBER, J.M.

Ashok Kumar Bharti son of
late Sri Kanhaiya Lal
resident of Mohalla Pattikala, Post Ahiraua,
District Mirzapur.

...Applicant.

By Advocate: Shri K.C. Vishwakarma

Versus

1. Union of India through its Secretary
Ministry of Communication (P&T)
Sansad Marg, Dak Bhawan, New Delhi.
2. Chief Post Master General,
U.P.Circle, Lucknow.
3. The Superintendent of Post Offices,
Mirzapur Division, Mirzapur.

...Respondents.

By Advocate: Shri R.C.Joshi

O R D E R

By Hon'ble Mrs. Meera Chhibber, JM

By this O.A. applicant has challenged the order dated 09.01.2004, which was passed by the office of Chief Post Master General, U.P.Circle, Lucknow pursuant to the direction given by this Tribunal in O.A.No. 261 of 2003 passed on 24.09.2003. He has further sought direction to the respondents to absorb the applicant on suitable vacant post.

2. The brief facts as alleged by applicant are that his father died on 07.12.1998 leaving behind four other



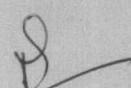
members apart from applicant, who were wholly dependant on him, therefore, he gave an application on 22.12.1998 for grant of compassionate appointment which was followed by reminder to respondent no.2. However, rejected the claim of applicant by order dated 18.12.2002 on the ground that family has own house and agricultural land of .082 Acre. They are getting family pension of Rs.2067/- and D.A. per month apart from terminal benefit of Rs. Rs.2,51,624/-. Ultimately family has no liability of minor child or unmarried daughter. Being aggrieved he challenged the ^{said} ~~such~~ order by filing O.A.No. 261/2003 before the Tribunal, which was decided on 24.09.2003 whereby the O.A. was dismissed. In this judgment ^{however} ~~the~~ direction was given to the respondents to reconsider the case of applicant for some other appointment as he belongs to Scheduled Caste Community. The Office of Chief Post Master General has now passed an order dated 09.01.2004. ^{He} has observed in the order, that as per the scheme of compassionate appointment circulated by Ministry of Personnel, Public Grievance and Pension New Delhi dated October 9, 1998, there is no provision for providing any special consideration to any community namely Scheduled Castes/Scheduled Tribes or O.B.C. The Compassionate appointment can be provided only to those dependants of deceased employees, whose families are really found in indigent condition that too, within the ceiling of 5% vacancies that arise from Direct recruitment quota. There is also no provision for providing any other employment by the Department to Scheduled Caste community. He has, thus, said that there is no merit in the representation, the same is rejected.



3. It is this order, which has been challenged by applicant in the present O.A. in second round of litigation on the ground that once direction was given by the Tribunal to consider the applicant for some other appointment, the respondents could not have rejected his claim for compassionate appointment. He has further submitted that applicant has only Kuccha house and three biswa land out of which only one biswa non agricultural land comes in the share of applicant. He has further submitted that the mother of applicant is totally a sick person and needs to be given medical help through out, therefore the whole amount which has been given to the family after the death of his father is not sufficient to meet the day to day expenses. He has, thus, prayed that the O.A. may be allowed and relief granted to the applicant.

4. I have heard counsel for the applicant and perused the pleadings as well. The counsel for the applicant had not placed on record the first judgment passed in the O.A. No. 261 of 2003, therefore, registry was directed to place the said file on record for Court's Perusal.

5. Perusal of the judgment passed in first O.A. 261 of 2003 shows that when he had approached this Tribunal in the first round, this Tribunal had recorded the finding: "The perusal of the impugned order, leaves no doubt in our mind that the case of applicant was not recommended because there were other deserving cases. Therefore, I do not find any illegality in the impugned order. Since, there is no good ground for interference and also the case is devoid of merit and the O.A. is accordingly dismissed." Meaning thereby that the order passed by the respondents was upheld by this Tribunal

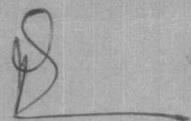


therefore, now it is not open to the applicant to raise the contention about one biswas land in his share or having owned only a Kucchha house because that stage has already gone, after the dismissal of the 1st O.A.. Tribunal had further observed that since applicant is shown to be a Scheduled Caste candidate, therefore, applicant should make a representation to the Chief Post Master General for another appointment as per rules and in case he was to make the said representation, Chief Post Master General i.e. respondent no.2 was directed to consider the same and pass appropriate orders.

6. Chief Post Master General now has rejected the representation of the applicant by stating that there is no provision in the scheme issued by Government of India to give any special weightage to the Scheduled Caste candidates, therefore, the only ground on which applicant could have challenged this order was to show that there did exist a provision to grant some extra weightage to the scheduled caste candidates. Counsel for the applicant has neither made any such averment in the O.A. nor has been able to show me any scheme issued by Government of India which provides for giving special weightage to the Scheduled castes candidate for grant of compassionate appointment. I am sure in my mind, that there does not exist any such provision in any of the schemes and since there is no such provision made in any of the schemes, the order passed by the respondents, Chief Post Master General cannot be said to be wrong, arbitrary or illegal. Sometimes an observation is made by the Court but that cannot be taken to be as mandatory because in the same paragraph Tribunal had directed the Chief Post Master General to consider the representation and to pass appropriate order thereon. If the intention was give appointment to the applicant simply because he belonged to the Scheduled caste community, Tribunal would have given a positive direction in this regard but there is no such

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positive direction given by the Tribunal on the contrary Tribunal had only directed the Chief Post Master General to consider this aspect of the matter. Since Chief Post Master General has now considered this aspect and passed a reasoned order, I do not find any good ground to interfere in the case, The O.A. is accordingly dismissed at the admission stage itself with no order as to costs.



Member-J

Brijesh/-