

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 28th day of August 2007

Original Application No. 752 of 2004

Hon'ble Mr. P.K. Chatterji, Member (A)

Pawan Kumar Dubey, R/o 1/74 Machhali Tola, Faatehgarh.

... Applicant

By Adv: Sri R.C. Srivastava and Sri V.B. Srivastava

V E R S U S

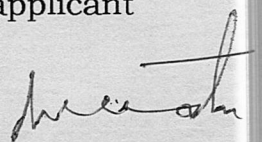
1. Union of India through the Secretary, Post Ministry of Communication, New Delhi.
2. Director Postal Services, Lucknow, UP.
3. Circle Relaxation Committee, UP Circle, Lucknow through its Chairman/Chief Post Master General, UP Circle, Lucknow.
4. Post Master General, Kanpur Region, Kanpur.
5. Superintendent of Post Offices, Fatehgarh, Division, Farrukahbad.

... Respondents

By Adv: Sri S. Singh

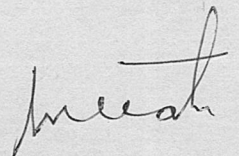
ORDER

The order which is under challenge in this OA is the letter of respondent No. 5 dated 06.05.2004. By this letter the applicant was informed by respondent No. 5 that after consideration of his representation for appointment under compassionate ground by the Circle Relaxation Committee (CRC) it was not approved. The applicant's father Sri V.K. Dubey was formerly Deputy Post Master, Fatehgarh. He expired on 27.07.32001 while in service. Thereafter, the applicant

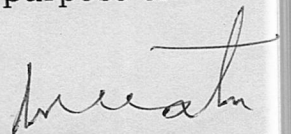


made representation for job on compassionate ground. The applicant has stated that at the time of his death his father left the family comprising the widow and seven children. The pension which was granted at the rate of Rs. 3550 per month and other retiral benefits of about 4 lacs are not sufficient for maintenance of the family. The applicant's case was, therefore, quiet deserving. But the respondents failed to appreciate the distress of the family despite providing all necessary details. The applicant says that he challenges the impugned orders mainly on the following grounds:

- a. The impugned order is cryptic. It does not give any specific reasons for rejection of the application. It also does not disclose as to what was the number of vacancies and who were the people who got selected. What were their family circumstances and liability vis-à-vis the applicant.
- b. Respondents No. 5 has communicated has conveyed decision stating it to be that of the CRC. However, the decision of the CRC has not been incorporated.
- c. No enquiry was conducted by the respondents to ascertain the financial status, liability of the family before taking the decision.
- d. In the counter affidavit the respondents have stated that the applicant was given about Rs. 5 lacs as retiral benefits plus family pension of Rs. 3550 per month. Learned counsel for the applicant has stated that as per the ruling given by the Hon'ble Supreme Court retiral benefit could not be made a ground for rejection.



2. The respondents have refuted all the allegations. They have stated that as per the DOPT guidelines the representation of the applicant was considered by the CRC which is the authority for such purpose. The case was also considered in terms of all the parameters laid down for such consideration. The respondents have also refuted the allegation that the respondents did not carryout any prior enquiry to ascertain the liability/financial status of the family. During the argument learned counsel for the respondents drew my attention to annexure No. 1 and 2 of the CA in which the particulars of the family of the applicant has been given. It is also seen from the annexure that the details has been verified by the Assistant Superintendent of Post Offices Fatehgarh. Therefore, the contention of the applicant that the respondents did not conduct necessary enquiry to ascertain the financial status of the family is not tenable. The respondents have also countered the allegation that the impugned order dose not contain the decision of the CRC. He says that the impugned order was based on the communication dated 28.4.2004 from the Assistant Director Recruitment, in the office the CPMG UP Circle (Annexure 3 to the CA) which conveys the decision of the CRC. The learned counsel further states that the applicant cannot claim a job under compassionate ground as a matter of right. The job has to be provided within the limited vacancy of 5% of the annual vacancy as laid down by the orders of the Government. Not only that, the representation of all applicant have to be evaluated for ascertaining the relative merit of the cases for appointment within the 5% quota. For the purpose of

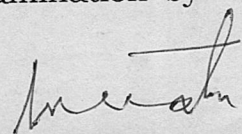


evaluation of the relative merit a number of factors have been laid down such a size of family liabilities etc. The CRC had taken the decision in an informed manner on the basis of information on all these parameters.

3. I have gone through the pleadings and heard the arguments. The allegation of the learned counsel for the applicant that the respondents dismissed the representation of the applicant without taking into account all the factors does not appear to be correct. On a perusal of the impugned order I find that the CRC, before deciding the case of the applicant had taken into account the following factors:

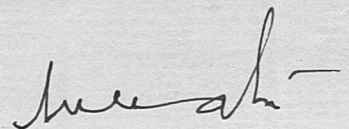
- a. Liability of the family such as education of minor children, marriage of daughters.
- b. Responsibility regarding aged parents.
- c. Prolonged and major ailment of any member of the family.
- d. The number of dependents.
- e. Financial condition of the family.

4. It is also stated in the impugned order that after evaluation of the merit of all the applicants inter-se the CRC took the decision that it would not be possible to accommodate the applicant within the limited vacancy. The learned counsel for the applicant stated that the Tribunal should adjudicate the matter only after calling all records regarding the selection by the CRC. In other words he wanted the particulars of vacancy as well as particulars of all applicants considered by the CRC should be seen by the Tribunal before adjudicating the matter. I however, did not consider it necessary. The examination by



the Tribunal is limited to ensuring that the applicant's case has been considered by the due procedure as laid down in the guidelines by the DOPT. The work of evaluation and assessment of the relative merits of many applications has been entrusted to the CRC. It has been vested with the requisite powers. It is not necessary for the Tribunal to usurp the power and substitute its own assessment for the assessment made by the CRC. In this case I have satisfied my self the procedure laid down for consideration of the cases has been followed.

5. Regarding the allegation of the applicant that the impugned order is liable to be set aside as being irregular for the reason that amount of retrial benefit was cited as the ground for rejection I applied my mind to the same. In the case of ***M.T. Latheesh Vs. Union Bank of India & Others 2006 SCC (L&S) 1646*** the Hon'ble Supreme Court in its judgment decided that for assessment of financial status of family of the applicant for compassionate appointment retrial benefits can also be taken into account. For the family of a person dying in harness retrial benefits becomes the main support and source of subsistence. Therefore, the respondents have right to take that into consideration. Having heard the arguments and going though the pleadings I am of the view that there is no illegibility/infirmity in the impugned order. The OA is therefore, dismissed. No cost.



Member (A)

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