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RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH :ALLAHABAD**

ORIGINAL APPLICATION NO.1310 OF 2005

ALLAHABAD THIS THE 10th DAY OF MAY, 2007

HON'BLE DR. K.B.S. RAJAN, J.M.

Anand Kumar, S/o late Sri Deep Chand Ram, Ex-Postal Assistant, Kidihidapur, Ballia, R/o Village Amave, P.O. Jajauli No. II, Kidiharapur, District Ballia.

.Applicant

By Advocate: Shri R.P. Singh

Versus

1. Union of India through the Secretary, Postal Department, Ministry of Posts & Communication, Government of India, New Delhi.
2. C.P.M.G., U.P. Circle, Lucknow.
3. P.M.G., Gorakhpur Head Post Office, Gorakhpur.
4. Head Post Master, Ballia, Head Post Office, Ballia.

.Respondents

By Advocate : Shri S. Singh

ORDER

Compassionate appointment is no doubt not a vested right. What is the right in this regard is that the guidelines for consideration of the compassionate appointment cases should be followed without any discrimination. Here is a case, where, from the details of the OA it is observed that the respondents, though considered the case of the applicant for compassionate appointment of the applicant, seem to have omitted to consider certain vital aspects or having considered them, have not

been able to highlight the same while rejecting the case of the applicant or for that matter at the time of filing the counter. As for example, it is the case of the applicant that he has furnished the list of dependents of the deceased government servant, the extent of social obligations the applicant has to undertake in marrying of his three sisters (vide Annexure A-5 of the OA) but there is no substantial reference to such items in the order of rejection of the case of the applicant, which gives rise to a presumption that such vital facts have been omitted to have been considered. If so, the case justifies reconsideration.

2. The respondents have however, contested the OA and have stated as under:-

"K. That after completion of usual formalities of compassionate appointment, the case for appointment on compassionate grounds was considered by the Circle Relaxation Committee keeping in view the various instructions on the subject issued by the nodal Ministry i.e. M/o Personnel (Department of Personnel & Training) and the circumstances of the family of the deceased employee i.e. financial condition, social liabilities etc. and availability of the vacancy for compassionate quota and he was not approved for compassionate appointment for the following reasons:-

"The case was considered by the Circle Relaxation Committee in its meeting held on 10, 11 and 12.3.2005 under the provision of DOPT OM no. 14014/6/95 Estt(D) dated 26.9.199, 14014/6/94-Estt (D) dated 9.10.1998 and 14012/23/99-Estt (D) dated 3.12.1999 and other instructions issued from time to time on the subject and also instructions issued vide Postal Directorate no. 66-59/2004-SPB-1 dated 29.9.2004. This case was not recommended for appointment by the Circle Relaxation Committee taking into account the inter-se merit of all the cases in terms of assets

and liabilities of aged parents prolonged and major ailments, financial conditions and other relevant factors.

8. That the applicant is required to put strict proof of the contents raised in paragraph 4.9 of the Original Application. However, suitable reply to this effect has already been given in the preceding paragraphs that the family of the deceased employee has in receipt of Rs. 3,54,702/ as terminal benefits and is getting family pension Rs. 2750+ DAR per month. The family of the deceased is also living in their own house and have agricultural land and having annual income of Rs. 36,000/-. Thus, the every submissions made under para reference are based on surmises and conjecture and in any view of the matter cannot be substantiated by the applicant."

3. Arguments were heard and documents perused. Though there is a presumption that in governmental action, bonafide is implicit, in view of the fact that the documents in this case do not reflect as to how many members of the family have been taken as the dependents, and whether the extent of liability to be undertaken by the applicant etc., whether the yield from the agricultural land is taken or the mere fact that there are agricultural lands, it is presumed that such lands would fetch good yield, have all been taken into account, the case deserves reconsideration by the circle relaxation committee. It is also seen that in general, a contention has been raised that vacancies to the tune of 5% of the direct recruitment vacancies alone would be considered. It has not been specifically brought out as to how many vacancies of direct recruit were available at the relevant point of time and whether the same took into account the latest order of the

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Government regarding optimization of vacancies, vide order dated June, 2006.

4. In order to instill confidence in the minds of the general public, all the details that were the subject matter for consideration by the committee ought to have been brought out in the communication. These are the days of "right to information" and secret cerebation has no place in governmental action. As such, in the interest of justice, this case deserves to be disposed of with the direction to the respondents to have a fresh look in the matter keeping in view the above discussion and should there be a full justification for compassionate appointment, the applicant shall be considered for the same, notwithstanding the fact that the death of the Government servant had taken place in October 2001. For, the applicant has approached this Tribunal in 2005 itself and it has taken some time for this OA to be disposed of.

5. The OA is, therefore, disposed of with the direction to the respondent to reconsider the case of the applicant. While doing so, the financial condition, the details of family members, the social obligations etc., shall all be considered and the case decided by the authorities, within a period of four months and a reasoned and speaking order shall be passed. In the event of rejection, the applicant shall be informed of the comparative merit also

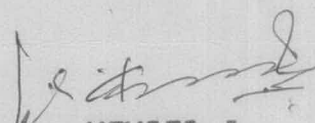


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reflecting therein as to how cases of others in respect of whom compassionate appointment has been recommended have been found to be more deserving.

Time limit for compliance is three months from the date of receipt of copy of this order. No order as to costs.


MEMBER-J

GIRISH/-