

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This The 20 Day Of May 2011)

Hon'ble Dr. K. B. S. Rajan, Member (J)
Hon'ble Mr. D. C. Lakha, Member (A)

Original Application No. 217 of 2005
(U/S 19, Administrative Tribunal Act, 1985)

Amit Kumar S/o Late Amar Singh Azaad Nagar Kalony Gali No.2
District Saharanpur.

..... **Applicant**

By Advocate: **Shri Anurag Pathak**
Shri R.S.Dwivedi

Versus

1. Union of India through Secretary Indian Postal Department
New Delhi.
2. Chief Post Master General U.P. Circle Lucknow.
3. Superintendent R.M.S., S.H. Division Saharanpur 247001.\
4. Asitt. Director (Rccut) Lucknow U.P..

..... **Respondents**

By Advocates: **Shri R.D. Tiwari**

O R D E R

(Delivered by Hon'ble Dr.K.B.S.Rajan, Member (J)

1. One Shri Amar Singh Azad Ex sorting Assistant, R.M.S. (SG) Division Saharanpur expired on 08.12.2001, while in service leaving behind his widow and three children. According to details

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furnished, the family of the deceased is living in their own house and is getting monthly family pension Rs.3625/- Amar Son the son of the Ex employee applied for the post of Group 'D' on compassionate grounds. The Circle Relaxation Committee, keeping in view the instructions on the subject issued by the DOPT, considered the financial condition of the family of the deceased, but could not recommend the appointment on the basis of the norms prescribed in this regard for grant of compassionate appointment. It is against an order dated 26.04.2004 (Annexure A-2) that the applicants have filed this O.A..

2. Respondents have contested the O.A.. After referring to certain decision of the Apex Court in regard to the Compassionate Appointment and the Rule position. They have stated that Circle Relaxation Committee has rejected the case of the applicant.

3. The applicant has filed Rejoinder Affidavit stating that Rs.3625/- Per Month as family pension would not be sufficient for a family of four members. He has also annexed a copy of O.M. dated 09.10.1998 which gives details relating to grant of Compassionate Appointment.

4. Though liberty was given to file written submission, the same was not forthcoming. Hence, the pleadings were perused.

5. It is true that the Apex Court in a number of cases has held that Compassionate Appointment is not a vested right and it is to meet the immediate financial requirement that such appointment is being sought. The Apex Court has not stated that

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compassionate appointment cannot be granted at all. The various guidelines prescribed by the DOPT ought to be applied including that the 5% vacancies of direct recruitment quota should be without applying constriction under 'optimization' for other direct recruits. All the cases before the Circle Relaxation Committee should be considered and compared/contrasted with other cases and then the decision has to be arrived at.

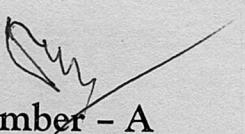
6. In the instant case, the Circle Relaxation Committee seems to have considered the case but on the basis of the fact that the family has their own house and the family pension is also available at Rs.3625 the case of the applicant seems to have been rejected. The reply does not give out clear details of total number of vacancies under Compassionate Appointment, how many points the applicant has scored and how many others who had been granted the compassionate appointment had scored etc., as compassionate appointment is based on the total number of points of the prescribed norms and if the applicant's case could be covered within 5% quota for Compassionate Appointment.

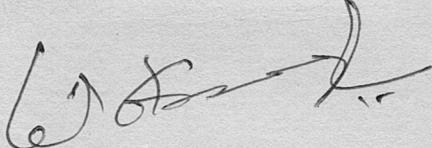
7. As the original records have not been filed/produced by the respondents it could be possible for the Tribunal to peruse the same and arrive at a conclusion whether the decision is legal and valid or not.

8. In the absence of the same, the Tribunal could not decide the matter to come to a final conclusion that the applicant is/is not eligible for the compassionate appointment.

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9. In the interest of justice this case is disposed of with a direction to the respondents to peruse the original record and give full details as to the number of times the case of the applicant was considered and further to give the full details of the total number of vacancies in each year and the marks/units obtained by the applicant and the marks obtained by the selected candidates in each year. This order be communicated to the applicant and in case the applicant is entitled to the relief sought for the same may be granted and if not the applicant be suitably informed accordingly. No costs.


Member - A


Member - J

Sushil