

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
O.A. No. 050/00070/2021**

Date of Order: 08th April, 2021

C O R A M

HON'BLE MR. SUNIL KUMAR SINHA, MEMBER [A]

Chandan Kumar, Son of Late Amrendra Thakur, Resident of Village & PO- Rajapakar, District – Muzaffarpur-823001.

..... Applicant.

By Advocate :- Shri S.K. Tiwary.

-Versus-

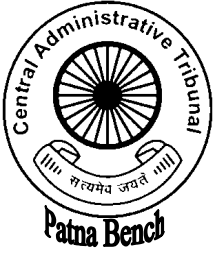
1. The Union of India, through the Secretary cum D.G., Government of Ministry of Communications & I.T., Department of Posts, New Delhi – 110001.
2. The Chief Postmaster General, Bihar Circle, Patna – 800001.
3. The Assistant Director (Recruitment) Office of Chief Postmaster General, Bihar Circle, Patna – 800001.
4. The Superintendent of RMS U Division, Muzaffarpur 823001.

..... Respondents.

By Advocate :- Shri Deepak Kumar.

O R D E R (O R A L)

S.K. Sinha, M[A] :-The instant OA is about compassionate ground appointment (CGA) and it is the third time that applicant has approached this Tribunal on the same matter. Earlier, the applicant had preferred OA No.1029/2018 praying for direction to the respondents to consider his representation for CGA which he had submitted after clearing Class 10 examination. The applicant's father, a Group 'D' employee in Postal Department, had died in harness on 10.02.2011 leaving behind his widow, two unmarried sons and two unmarried daughters. The applicant had requested the departmental authority for appointments on compassionate ground but the



authorities decided on 29.04.2013 not to recommend his case because he had not passed 10th class. Subsequently, applicant cleared the 10th class examination and applied again for compassionate appointment before the competent authority on 26.09.2013. When the authorities did not respond to his representation for more than four years, the applicant approached the Tribunal with the aforesaid OA (No.1029/2018). The Tribunal disposed of the OA vide order dated 12.12.2018 with direction to the respondent No.3 to consider the case of the applicant and decide his pending representation for compassionate ground appointment. Subsequently, respondents passed an order on 30.07.2019, which is reproduced as under:-



“विषय:- अनुकम्पा के आधार पर नियुक्ति के संबंध में।

आप के अनुकम्पा के आधार पर नियुक्ति का मामला दिनांक 23.07.2019 को हुई अनुकम्पा समिति के समक्ष रखा गया। मामले को देखा गया तथा यह पाया गया कि आपकी दो जन्म तिथि है एक जो राजकीयकृत हीरा कमला उच्च विद्यालय, गोपालपुर, पोस्ट-राजापाकड़ (मुजफ्फरपुर) द्वारा निर्गत किया गया है उसके तहत आपकी जन्म तिथि 11.01.1988 दर्शाया गया है एवं दूसरा प्रमाण पत्र जो माध्यमिक शिक्षा परिषद, उत्तरप्रदेश द्वारा निर्गत किया गया है उसके तहत आपकी जन्म तिथि 01.01.1990 दर्शाया गया है।

अतः इस मामले को संदेहास्पद मानते हुए रद्द किया जाता है।”

2. The case for applicant's compassionate ground appointment was rejected on the ground of variance in the date of birth of applicant in different certificates. A certificate issued by Government Heera Kamla High School, Gopalpur (Rajapakar) mentioned the date of birth as 11.01.1988 whereas the certificate by UP Education Board mentioned it as 01.01.1990.



3. The applicant preferred another OA No. 963/2019 before the Tribunal challenging the above decision. The Tribunal while disposing of the OA (963/2019) on 06.02.2020 adopted the ratio laid down by Hon'ble Supreme Court in the State of M.P. Vs. Mohan Lal Sharma reported in SCC (2002) (N&S) 1109 that the date of birth recorded in matriculation certificates carried a greater evidential value than that contained in a certificate given by the retired Headmaster of the school or in the horoscope. Based on this judgement, the Tribunal expressed that date of birth of the applicant given in the matriculation certificate should have been given greater value and directed the respondents to re-examine the claim of the applicant by placing it before the CRC without influence of the impugned order.

4. Complying with the Tribunal's order, respondents considered the case but reiterated the earlier stand and rejected the representation of the applicant for CGA as doubtful in view of variation in the date of birth in different certificates. The order of respondents dated 25.11.2020/09.12.2020 (Annexure A/4) is reproduced as under:-

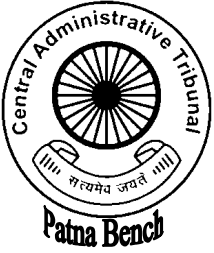
‘विषय:-अनुकम्पा के आधार पर नियोजन के संबंध में।

माननीय कैट पटना बेंच, पटना के आदेश दिनांक 06.02.2020 जो ओ0एम0 संख्या 963/2019 के तहत पारित किया गया है उसके आलोक में आप के अनुकम्पा के आधार पर नियुक्ति का मामला दिनांक 28.09.2020 एवं 29.09.2020 को हुई अनुकम्पा समिति के समक्ष रखा गया। मामले को देखा गया तथा यह पाया गया है कि आपका दो जन्म तिथि है। राजकीयकृत हीरा कमला उच्च विद्यालय, गोपालपुर, पोस्ट-राजापाकड़ (मुजफ्फरपुर) द्वारा स्थानान्तरण प्रमाण पत्र निर्गत किया गया है उसके तहत आपकी जन्म तिथि 11.01.1988 दर्शाया गया है तथा बिहार विद्यालय परीक्षा समिति द्वारा निर्गत प्रवेश पत्र में भी 11.01.1988 दर्शाया गया है एवं

दूसरा प्रमाण पत्र जो माध्यमिक शिक्षा परिषद, उत्तरप्रदेश द्वारा निर्गत किया गया है उसके तहत आपकी जन्म तिथि 01.01.1990 दर्शाया गया है।

अतः इस मामले को संदेहास्पद मानते हुए रद्द किया जाता है।”

5. The applicant preferred the instant OA requesting to quash and set aside the above order (Annexure A/4) and to direct the respondents to re-consider the case of applicant for CGA.



6. Heard the parties.

7. Shri S.K. Tiwary, learned counsel for applicant submits that the applicant's father died on 10.02.2011 leaving behind his widow, two unmarried sons and two unmarried daughters and as the family is facing financial hardship the applicant has been praying for compassionate appointment. Ld. Counsel averred that purpose of compassionate ground appointment is to help the family facing indigence after death of the breadwinner. The applicant's case deserves consideration rather than rejection on technical ground of difference in date of birth in two certificates. The applicant's actual date of birth is 01.01.1990 but it was recorded by mistake as 11.01.1988 in Gopalpur High School records. Ld. counsel was unable to clarify the circumstances under which this mistake occurred. He referred to the Hon'ble Supreme Court judgement in State of M.P. vs. Mohal Lal Sharma supra holding that the Matriculation certificate has greater evidential value for date of birth. Ld. counsel pleads to direct the respondents to consider the case of applicant for compassionate ground appointment by accepting Class 10 certificate for date of birth of the applicant .



8. Learned counsel for respondents Shri Deepak Kumar submits that applicant has submitted two sets of certificates before the respondents showing different date of birth. One, the Admit Card for Class 10 examination issued by the Bihar School Examination Board in 2006 and the School leaving certificate issued by Government Heera Kamla High School, Gopalpur, Rajapakar issued in 2011, both show the date of birth as 11.01.1988. Second, the Class 10 certificate issued by the Board of High School and Intermediate Examination, UP in which the date of birth is given as 01.01.1990. Ld. counsel avers that since the certificates issued by two different Boards show different dates of birth, the applicant's integrity is under doubt and he is not suitable for any appointment. Ld. Counsel also mentions that there is difference in the family details submitted by applicant before the Postal authorities and the Tribunal. He requests to dismiss the OA.

9. Having heard the submissions and perused the record, it is observed that moot issue in this O.A. is whether variation in date of birth in the educational certificates can be the ground for rejecting the claim for compassionate ground appointment.

10. It is undisputed that the applicant's date of birth is shown as 11.01.1988 in the Admit Card for Class 10 examination issued by Bihar School Examination Board in 2006 and 01.01.1990 in the Class 10 certificate issued by Board of High School and Intermediate Examination, UP on 08.06.2013. Further, the school leaving certificate issued by Government Heera Kamla High School ,

Gopalpur on 08.04.2011 shows that the applicant had failed in Class 10 examination in 2006.

11. 'Consolidated Instructions on Compassionate Appointment', shared by the Department of Personnel & Training (DoPT) with all Ministries/Departments of Government of India (GoI) vide Office Memorandum dated 06.01.2013 lays down the objective of the CGA scheme as under:



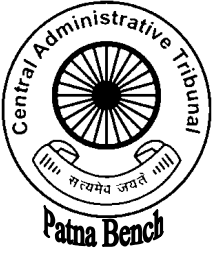
“The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.”

Thus compassionate ground appointment is a welfare measure to help the family of deceased employ facing indigent condition.

12. The applicant's case was considered by the authorities in April 2013 and rejected as he did not possess the Class 10 certificate then. He cleared Class 10 examination in June 2013 but his representation has been rejected twice since on the ground of variance in the date of birth. The variation in date of birth, as in the instant case, without ascertaining the reasons thereof, cannot be imputed to the applicant and make him ineligible for appointment. Also, it is settled law that matriculation certificate has higher evidential value for date of birth.

13. In view of the above discussions, it is held that in the interest of justice the applicant's case for compassionate appointment

should be considered taking his date of birth as in the matriculation certificate and that his case is not rejected because of variance in date of birth in different certificates. The respondents are accordingly directed to re-examine the case of the applicant for appointment on compassionate ground by accepting his date of birth as in the Class 10 certificate issued by UP Board of High School and Intermediate Education (Annexure R/4) and place the case of the applicant before the next CRC meeting for consideration.



14. With above observations and directions, O.A. stands disposed of. No costs.

[Sunil Kumar Sinha]
Member [A]

sks/-