

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

ORIGINAL APPLICATION NO. 416 of 2003 (U)

this the 29th day of July 2004.

HON'BLE MR. JUSTICE S.R. SINGH, V.C.

pratap Singh Mehra, S/o Sri Diwan Mahendra Singh Mehra,
R/o Village & P.O. Udiyari via berinag S.O. District
pithoragarh.

... Applicant.

By Advocate : Sri A. Tripathi.

Versus.

1. Union of India through the Secretary (Posts),
Ministry of Communications, Dak Bhawan, Sansad
Marg, New Delhi.
2. The Director General (Posts), Department of posts,
India, Dak Bhawan, Sansad Marg, New Delhi.
3. Chief postmaster General, U.P. Circle, Lucknow.
4. Chief postmaster General, Uttaranchal Circle,
Dehradun.
5. Superintendent of post Offices, Pithoragarh Division,
Pithoragarh.

Respondents.

By Advocate : Sri Saumitra Singh.

O R D E R

The applicant was selected for compassionate appointment by relaxing the relevant recruitment rules and by order dated 17.8.1999 (Annexure A-8), he was allotted Pithoragarh Division for appointment in the cadre of postal Assistant (in short P.A.). The contents of the letter dated 17.8.1999 however, clearly visualised that the actual appointment would be offered on availability of the vacancy in the division. It appears that no vacancy within the prescribed ceiling

(R.S.)

of 5% was made available in Pithoragarh Division and the applicant remained only a wait listed candidate. He has been making correspondence from time to time, but the fact is that he was not actually appointed against a vacant post within the 5% ceiling prescribed for compassionate appointment. In the meantime, by means of office letter no. 24-1/99-SPB-I dated 8.2.2001 ✓ issued on the subject of "compassionate appointment proposal of candidates approved for the same who have been kept in the wait list prior to this office order", ~~the~~ instructions were issued in consultation with the Department of Personnel & Training regarding dis-continuation of waiting list of candidates approved for compassionate appointment. It was, however, provided in the said letter that the candidates whose names were already in the wait list for appointment on compassionate grounds, but could not be appointed due to want of vacancies within 5% limit may be asked to express their willingness for consideration by other Ministries and their names should be circulated to other Ministries subject to their willingness. The Department of Personnel & Training in their O.M. no. 14014/18/2000-Estt(D) dtated 26.2.2001 circulated vide this office letter no. 24-1/2001-SPB-I dated 6.7.2001 had directed that in future the Committee for considering the request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should limit its recommendations for appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/Department/Office, that too within the ceiling of 5% of vacancies falling under Direct Recruitment quota in any Group 'C' or 'D' post prescribed in this regard. The Director (Staff), Government of India, Ministry of Communication, Department of Posts vide letter no. 37-16/2001

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-SpB-I dated 25.7.2001 took a decision, keeping in view the remote chance of absorption of the approved candidates kept in the waiting list against vacancies available within 5% ceiling of direct recruitment quota, that the listed candidates who have already been approved for appointment on compassionate grounds and were still waiting for absorption for want of regular departmental vacancies as on 8.2.2001, ^{may} be offered & ~~the offer of~~ appointment against Gramin Dak Sewak (in short ~~not to be given~~ G.D.S.) posts "subject to their fulfilling required conditions of recruitment like educational qualifications etc." and subject ^{also to their willingness.}

2. Consequent upon the said decision, the applicant was required to give willingness for appointment to the post of G.D.S. By means of the letters dated 25.5.2001, 26.11.2001 and 22.4.2002, the applicant gave his willingness to be appointed on the post of G.D.S. subject of course to the rider that as and when vacancy occurs in near future in P.A. cadre in Uttranchal Circle, he may be appointed against that cadre. According to the respondents, the applicant was informed vide letter dated 16.10.2002 pursuant to Circle Office, Dehradun's letter dated 1.10.2002 that the Directorate had further decided to extend the validity of the scheme for another year i.e. upto 24.7.2003 vide Directorate letter dated 13.9.2002 and the applicant was accordingly asked to "submit his un-conditional ^{willingness} to this office as this is the last chance being given to him for submission of his willingness.", but the applicant did not submit his willingness.

3. Sri A. Tripathi, learned counsel for the applicant submits that the applicant was selected for appointment as P.A. and accordingly a right vested ⁱⁿ ~~with~~ him for being appointed on the said post and this right, according to the learned counsel for the applicant, would not be taken away as a result of a policy decision taken by the respondents whereby wait listing of candidates for compassionate appointment has been dispensed with. RJG

I am not impressed with the submission made by the learned ^{to confer} counsel. Mere selection of an individual does not give any right to be appointed on the said post. Infact in the appointment letter dated 17.8.1999 (Annexure-8) itself, it was provided that the appointment in the concerned division would be offered only on availability of the vacancy ⁱⁿ with the prescribed ceiling of 5%. In my view, therefore, the applicant cannot claim appointment merely on the ground that he was selected ^{for appointment} to the post of P.A., in view of the fact that wait listing of candidates for compassionate appointment has been dispensed with and a policy decision has been taken to the effect that the appointment would be made in future against the available vacancy and no wait listing of candidates for compassionate appointment is being maintained.

4. Sri A. Tripathi learned counsel for the applicant then submits that the applicant had given his consent though with a rider, as stated hereinabove, the respondents ought to have offered appointment on the post of G.D.S. as per their own policy.

5. Having regard to the facts and circumstances of the case, I am of the view that the right to be appointed on the post of G.D.S. as per policy decision taken by the respondents would not be lost, merely because the applicant had put a rider in his consent letter to the effect that he may be given appointment in P.A. cadre as and when the vacancy occurs in near future in Uttranchal circle. The learned counsel for the applicant submits that the applicant is willing to join the post of G.D.S.

6. In the circumstances, therefore, the O.A. succeeds and is allowed in part. The respondents are directed to ~~offer~~ ^{offer} ~~the~~ appointment to the applicant to the post of G.D.S. in Pithoragarh Division at a place near his home town within a period of three months from the date of communication

of this order, parties are directed to bear
their own costs.

DR. J
VICE CHAIRMAN

GIRISH/-