

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 843 of 2003

Allahabad this the 28th day of January, 2004

Hon'ble Mrs. Meera Chhibber, Member(J)

Bhuwneshwar Prasad, Son of Late Ram Ratan, R/o Village
and Post Office Kachnarva, District Sonbhadra.

Applicant

By Advocate Shri Ram Vichar Chaudhary

Versus

1. Union of India through Secretary, Ministry of Communication, Department of Posts, South Block, New Delhi.
2. Post Master General, U.P. Division, Lucknow.
3. Superintendent of Post Offices, Mirzapur Division, Mirzapur.
4. Post Master, Head Post Office, Mirzapur.
5. Sub Divisional Inspector, Post Office, Robertsganj, Sub Division, Sonbhadra.
6. Sub Post Master, Post Office, Windhamganj, Sonbhadra.

Respondents

By Advocate Shri P.D. Tripathi

ORDER (Oral)

By Hon'ble Mrs.Meera Chhibber, Member(J)

By this O.A. applicant has sought following reliefs:-

- (i) to direct the respondent no.2 to grant the approval to the compassionate appointment of



the applicant made on 10.07.98 by respondent no.5.

- (ii) to direct the respondents to permit the applicant to work to the post of Extra Departmental Runner in pursuance of the letter dated 10.7.98 by paying salary admissible to him.

2. It is submitted by the applicant in his O.A. that his father was working as Extra Departmental Runner when he died on 27.03.1987 and since he was the only earning member and he left behind his widow and four sons, the applicant gave an application for granting him compassionate appointment as there was no other bread earner in the family. Looking at their financial condition, the applicant was permitted to work on the post of Extra Departmental Runner on ad hoc basis from 01.10.1997, charge report is annexed as annexure-3. Subsequently, applicant was appointed as Extra Departmental Runner by letter dated 10.07.1998 with the condition that it is subject to approval from the Office of Divisional Office of Chief Post Master General, U.P. Division, Lucknow(annexure-4). It is submitted by the applicant that he was allowed to continue thereafter and he was even asked to furnish the details of his educational qualification, landed property and income certificate of all the family members vide letter dated 06.09.2000, which was duly submitted by him but ultimately to the utter surprise of the applicant he was illegally restrained from working as Extra Departmental Runner from March, 2001 by an oral order on the ground that approval of appointment on compassionate ground has still not come, therefore, it is not possible to permit him to work. The applicant has, thus, prayed the reliefs as mentioned above.

3. Counsel for the respondents on the other hand submitted that this O.A. needs to be thrown at the admission stage itself as the applicant has not come to the Court with clean hands and he has suppressed the basic fact that after the death of his father, his mother was allowed to work by way of stop gap arrangement w.e.f. 05.10.1987. She worked up to



30.09.97. Thereafter she left the work on her own and applicant was allowed to work as a local arrangement subject to the approval of the competent authority. In the said order, it was made clear that if the approval was not received or is rejected, his arrangement shall automatically come to an end. Ultimately the competent authority did not give approval and the applicant was removed from service w.e.f. 24.10.2000 and another person has already been engaged on regular basis after his selection. As far as application for grant of compassionate appointment is concerned, learned counsel for the respondents has submitted that the same was considered and rejected vide order dated 17.01.2001. He has, thus, submitted that in these circumstances, applicant cannot claim the relief as a matter of right.

4. I have heard both the counsel and perused the pleadings as well.

5. Since the respondents' counsel had given all these facts orally in the Court without filing the counter reply, at the admission stage itself, I had specifically asked the learned counsel for the applicant whether applicant's mother was allowed to work from 1987 to 1997 or not, to which the counsel for the applicant fairly admitted that his mother was allowed to work by way of stop-gap-arrangement because applicant was minor at that time. Therefore, after he attained the majority, he gave his application for granting compassionate appointment and he was allowed also to work till the approval from the competent authority, which was ultimately not considered, according to the applicant. Counsel for the respondents ^{on the other hand B} has specifically stated that his application for compassionate appointment was considered and the same was rejected by the competent authority on 17.01.2001 under intimation to the applicant. We have no reason to doubt the correctness of the said statement. Ultimately, it is settled law that nobody can claim compassionate appointment as



a matter of right and at best the person has only right for consideration. If the case has been considered and rejected by the competent authority, the Courts cannot give direction to the respondents to either grant approval or to give the compassionate appointment to an individual. It has been held by the Hon'ble Supreme Court in the case of J.T.¹⁹⁹⁴ Vol(I) page 183 that Tribunal cannot give direction to the respondents for appointing a person on compassionate ground but can merely direct to consider the claim. This would obviously ^{be} in the circumstances where either the competent authority has not considered the claim of the applicant at all or reasons given ^{while} rejecting the claim are not valid in the eye of law. In the instant case, ~~the~~ applicant has not challenged any order as he has submitted that he has not been served with any order so far. If this position is correct that applicant has not been served with any order, the respondents are directed to serve a copy of the said order on the applicant within a period of 4 weeks from the date of receipt of a copy of this order. It goes without saying that the order shall be reasoned and speaking order. In case the applicant is aggrieved by the said order, it will be open to him to challenge the same by filing a fresh O.A. With the above directions, ~~the~~ O.A. stands disposed of at the admission stage itself with no order as to costs.



Member (J)

/M.M./