

(6)

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

PRESENT

HON'BLE MR. A.K. GAUR, MEMBER (J).

ALLAHABAD this the 12 day of 9, 2008.

Original Application Number. 757 OF 2007.

Anand Kumar Chaubey, S/o Late Bhoop Narain Chaubey,
R/o Village and Post- Sonbarsa, Tehsil- Bariya, Distt. Ballia.

.....Applicant

By Advocate: Sri R.N. Ojha

VERSUS

1. Union of India through Ministry of Communication Telegraph Department, New Delhi.
2. Chief Post Master General, U.P. Circle, Post and Telegraph Department, Lucknow.
3. Senior Superintendent of Post Offices, Azamgarh Division, Azamgarh.
4. Post Master General, Gorakhpur Region, Gorakhpur.
5. The Circle Relaxation Committee, Dpartment of Post Office, Azamgarh Division, Azamgarh.

.....Respondents

By Advocate: Sri Saumitra Singh

ORDER

DELIVERED BY: HON'BLE MR. A.K. GAUR, J.M.

The applicant has filed the instant O.A for the following relief (s): -

- "(i). to issue an order, direction commanding the respondents to produce the order of Circle Relaxation Committee who refuse to recommend the case of applicant and to quash the same as well as order dated 28.03.2007 and
- W

(7)

30.03.2007 (Annexure- 1 and 2), appoint the petitioner on any post according to his qualification under the control of respondents on compassionate grounds and to pay his salary;

- (ii). to issue any other suitable order or direction as this Court may deem fit and proper under the facts and circumstances of the case;
- (iii). Award costs of the O.A I favour of the applicant/petitioner."

2. The capsulated facts of the case are that the father of the applicant, who was working as Sorting Assistant, died on 26.01.2000 leaving behind his wife, two unmarried daughters namely Km. Guddi and Poonam and two sons namely Anand Kumar Chaubey (the applicant) and Amit Kumar Chaubey. The mother of the applicant moved an application on 19.10.2000 before Chief Post Master General, Lucknow requesting for appointment on compassionate grounds in favour of her elder sone i.e. the applicant . According to the applicant, in response to the application dated 19.10.2000, the respondents directed the applicant to furnish details/particulars of financial status of the family and the liabilities left by the deceased and in compliance thereto, the applicant supplied the requisite information to the respondents. The grievance of the applicant in the instant O.A is that the impugned order dated 28.03.2007 (Annexure- 1 to the O.A) and 30.03.2007 (Annexure- 2 to the O.A) whereby the request of the applicant has been refused to recommend by the Circle Relaxation Committee are illegal, arbitrary, unjust , improper and unreasoned and deserves to be quashed.

2. On notice the respondents have filed their Counter Affidavit denying the claim of the applicant to which the applicant has also file Rejoinder.

✓

3. I have heard learned counsel for the parties at length and perused the pleadings as well as the Written submissions filed by both counsel for the parties with the leave of court.

4. During the course of arguments, learned counsel for the respondents vehemently argued that the relief as prayed by the applicant in para 8(i) is totally misconceived as the applicant is claiming his appointment on any post according to his qualification, which in view of the settled principle of law that the appointments on compassionate grounds cannot be claimed as a matter of right but is provided to dependent of Ex-official/ deceased employee who retired due to invalidation /expired leaving their family in indigent circumstances, is not permissible. It is further argued that the Circle Relaxation Committee has correctly considered the case of the applicant for compassionate appointment on the guidelines issued by the D.O.P.T and in number of judgments delivered by the Hon'ble Supreme Court, High Court and the Tribunal and the same was rejected by the C.R.C vide order dated 28.03.2007 and the decision of the CRC was communicated to the applicant vide letter dated 30.03.2007. In support of his contentions, the learned counsel for the respondents has placed reliance on Apex Court judgment in case of **U.K. Nagpal Vs. State of Haryana and others JT 1994 (3) (SC) 525 dated 04.05.1994** in which the limit of 5% of the direct recruitment vacancies on compassionate appointment has been fixed. Hon'ble Supreme Court in the said judgment has further held that "As a rule appointment in public service should be made strictly on the basis of open invitation of applications and merit and appointment on compassionate grounds

9

is an exception to the Rule. Any such exception should, therefore, be made to the minimum possible extent say one or two percent or maximum of five percent and if it exceed, that will be no longer be an exception". In this judgment Hon'ble Supreme Court has further held that the compassionate appointment cannot be granted after lapse of reasonable time and it is not vested right which can be exercised at any time in future. Learned counsel has further referred to the judgment of **Hon'ble Supreme Court dated 28.02.1995 in the case of LIC Vs. Mrs. Asha Ram Chandra Ambekar & Ors. JT 1994 (2) SC 183** wherein it has been held that the High Court and Administrative Tribunals cannot give directions for appointment of a person on compassionate grounds but can merely direct for consideration of the claim for such an appointment.

5. I have considered the rival contentions and find that the request of the applicant has duly been processed by the respondents and placed before the C.R.C for its further consideration. According to the order dated 28.03.2007 (Annexure - 1 to the O.A), the case of the applicant was considered by the Circle Relaxation Committee in its meeting held on 16.01.2007 and 18.01.2007 alongwith other candidates but C.R.C due to limited number of vacancies and that too after taking in to account inter-se merit of all the cases in terms of assets, liabilities and indigence of the family like total number of dependents, minor children, unmarried daughter/s, responsibility of aged parents, prolonged

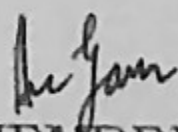
W

10

and major ailment, financial condition and other relevant factors did not recommend the applicant for compassionate appointment. In view of the settled principle of law laid down by the Hon'ble Supreme Court in **LIC Vs. Mrs. Asha Ram Chandra Ambekar & Ors. JT 1994 (2) SC 183** (referred to above), this Tribunal cannot give any direction to the respondents to appoint the applicant on compassionate grounds. The right for consideration of claim of the applicant has duly been followed by the respondents and the same was place before the CRC for its consideration wherein the case of the applicant has been considered. I find no irregularity or infirmity in the action of the respondents in passing the order dated 28.03.2007 (Annexure- 1 to the O.A) and the letter dated 30.03.2007, which is mere a communication letter of annexure - 1.

6. In view of the observation made above, I find no good ground for interference with the impugned orders and the O.A is dismissed accordingly being devoid of merits.

7. There will be no order as to costs.


MEMBER- J.

/Anand/