

I/4

199

DATE OF DECISION 10/11/2004

Petitioner

Advocate for the Petitioner (s)

Versus

Respondent

Advocate for the Respondent (s)



CORAM :

The Hon'ble Mr. G.R. Patwardhan, Administrative Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *Yes*

(G.R. Patwardhan)
Member(A)

I/9

**Central Administrative Tribunal
Jodhpur Bench, Jodhpur**

Original Application No. 299/2003
Date of Decision : This the 10th day of November, 2004.

Hon'ble Mr. G.R. Patwardhan, Administrative Member

Arvind Kumar Dadhich S/o Late Sh. Arjun Lal
Dadhich (Ex. Postal Assistant Jalore (Raj) Aged
26 years, C/o Smt. Basanti Devi, I/s Naya Darwaja
Padam Ji Ki Bari, Bari Kuan, Nagaur (Raj) 341 001.

.....Applicant.

[By Mr. S.N. Bohra, Advocate, for applicant.]

Versus

1. Union of India through the Secretary to the
Ministry of Communications (P&T)
Central Secretariat, Govt. of India,
New Delhi 110 001.
2. Chief Post Master General,
Rajasthan Circle, Jaipur - 302 001.
3. Director (P&T), Rajasthan (West Zone)
Jodhpur 342 001.
4. Post Master, Head Post Office, Jalore.
5. Superintendent (P&T) Sirohi Division, Sirohi-001.

.....Respondents.

[By Mr. Vineet Mathur, Advocate, for respondents]

**ORDER
[BY THE COURT]**

The brief facts of the case of Arvind Kumar Dadhich are that his father late Shri Arjun Lal, was an employee of the Department of Posts who expired on 24th August, 1988 while in service. He was working at Head Post Office at Jalore under the respondent No. 4, the Superintendent of Posts, Sirohi Division, Sirohi and held the post of Postal Assistant as a permanent employee. At the time of death, the applicant was admittedly a minor and being only twelve years old, was not in a position to apply for and get a Government job. However, as soon as he



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attained majority an application was moved for appointment on compassionate ground some time in July 1995. The applicant, thereafter, passed examination equivalent to matriculation by the name of 'Prathama' in 2002. Efforts seem to have continued to seek employment by writing letters and reminders but all that seems to have happened is receipt of a letter from the respondents some time in March 2001 at Annex. A/1 of which relevant part is as follows :-

"The Committee has considered your case keeping in view instant rulings, directions and documents related to your case and observed the following :-

- (1) The widow getting family pension amounting to Rs. 1275/- + D.R. per month.
- (2) Terminal benefits to the tune of Rs. 22,137/- has been paid to your family.
- (3) You are in possession of residential house/agriculture land 11 Bigha annual income worth Rs. 3300/-.
- (4) Hence the financial condition of your family does not as per to be inelegant requiring immediate relief.
- (5) The purposes of providing immediate assistance does not exist in this case since the official expired/invalidated 12 year back.
- (6) The family has own a house.
- (7) The applicant is doing private job & earning Rs. 1000/- PM.

Hence there is not indigency in the case and committee has accordingly rejected your case for appointment on compassionate grounds.

This is for your kind information, inconvenience caused to you is deeply regretted."



2. The sum total of the communication appears to be that the respondents have not accepted the contention of the family as indigent and accordingly, through the Circle Relaxation Committee (CRC) took the view that he did not deserve appointment on compassionate ground.

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It is this particular communication which is sought to be challenged through paragraph 8 of the O.A. as the prayer made is that this communication be set aside and quashed and the applicant be provided with appropriate appointment.

3. The grounds taken in support of the prayer are as follows :-

(a) Though the applicant was a minor at the time of the death of his father, he started approaching the authorities immediately after becoming a major.

(b) The applicant possesses necessary qualifications.

(c) The technicalities should not come in the way of providing appointments under the relevant circular.

4. A detailed reply has been filed where after admitting the essential facts, the following points have been mentioned in support of the alleged communication at Annex A/1 :-

(a) The case was duly considered by the competent authority.

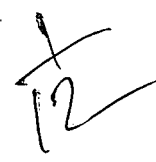
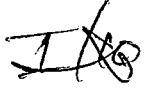
(b) On the basis of facts before it a conclusion was reached that the condition of family cannot be called indigent.

(c) The fact that the family could survive for ten years after demise of Government employee further goes to show that the case is not of any indigent individual.

(d) The applicant has income from agricultural land of about 11 bighas and is earning Rs. 1000/- from a private shop and also owns a house.

—Sre

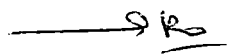


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(e) Under the latest instructions of Government of India compassionate appointment has to be provided within a ceiling of 5% of the posts falling vacant for direct recruitment and in the absence of such a vacancy being available the respondents have no way to help the family.

During the course of arguments, the learned counsel for the respondents has also cited the judgement of their lordships of the Hon'ble Supreme Court in the case of Sanjay Kumar Vs. State of Bihar reported in 2000 SCC (L&S) 895, to drive home the point that a vacancy cannot be kept reserved till someone attains majority and that the change in scenario of government staffing where direct recruitment has come down, very few vacancies for such purposes are usually found. The applicant has not been able to show how the decision of the respondents contained in Annex. A/1 is flawed. There is no allegation of mala fide, bias or prejudice nor is there any mention that appointments have been provided to equals and less deserving. It is, therefore, difficult to hold that the decision of the authorities is not based on facts. The application lacks merits and is, therefore, dismissed accordingly.




[G.R.Patwardhan]
Administrative Member

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18/10/05
M
F/Reproducible Performance

Part II and III destroyed
in my presence on 31/10/13
under the supervision of
section officer () as per
order dated 18/10/2013

J.R. [Signature]
Section officer (Record) 31.10.2013

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