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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

ORIGINAL APPLICATION NO. 182/2004

Date of Order 26.2.2008.

Sukhdeva Ram S/o Late Shri Kala Ram by caste Jat, aged 26 years, resident of Village Bazzu Tejpura, Tehsil Kolayat, District Bikaner, Ex. Gramin Dak Sewak Mail Deliverer, Post Office Bazzu, Tehsil Kolayat, District Bikaner.

.....Applicant.

By Mr. N.S. Rajpurohit, Advocate, holding brief of Mr. Harish Purohit, Advocate, Counsel for the applicant.

Versus

1. Union of India through the Secretary, Ministry of communications, Department of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Postal Services, Rajasthan Circle, Jaipur.
3. Superintendent of Post, Head Post Office, Bikaner.

.....Respondents.



By Mr. Mahendra Godara, Advocate, holding brief of Mr. Vineet Mathur, Counsel for the respondents.

ORDER

[PER JUSTICE A.K.YOG, MEMBER(J)]

Heard Mr. N.S. Rajpurohit, Advocate, holding brief of Mr. Harish Purohit, Advocate, learned counsel representing the applicant and Mr. Mahendra Godara, Advocate, holding brief of Mr. Vineet Mathur, Advocate, learned counsel for the respondents. Perused the pleadings and the documents on record.

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Admitted facts of the case are that one Kala Ram (father of the applicant Sukhdeva Ram) employed as EDDA in the Postal Department, died on 30th April, 2000. The widow of the deceased employee, Smt. Lichama (mother of the applicant) filed an application requesting for giving compassionate appointment to her son (Sukhdeva Ram / the present applicant). It appears that the respondent - department, while application for giving compassionate appointment was pending for consideration, provisionally engaged the applicant as Gramin Dak Sewak Mail Deliverer (GDSMD/Gramin Dak Sewak Vitrak) on purely stop-gap-arrangement so that day to day working of the Department does not suffer as contemplated and governed by - 'Gramin Dak Sewak (Conduct & Employment) Rules, 2001 [replacing P&TED Agents (Conduct & Service)], Rules, 1964. It has also come on record that the authorities made certain inquiry as to why, certificate of educational qualification was not submitted at the time of filing of the application for compassionate appointment; reference may be made to letter dated 26th March, 2002; Annexure A/4 to the O.A.



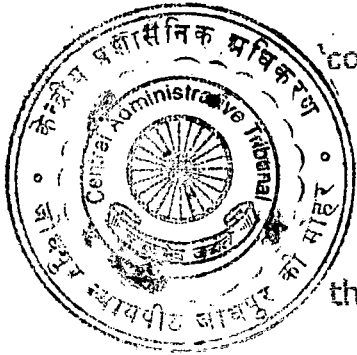
According to the applicant, he replied vide letter (undated); a copy whereof is Annexure A/7 to the O.A. wherein, he has disclosed that he passed Class VIII in the year 1992-1993. Respondent authorities, however, finally, rejected claim of compassionate appointment; copy of which is not on record. There is reference of it in the impugned order dated March 27, 2003 (Annex.A/1) whereby, the Superintendent of Post Offices, Bikaner was required to inform the applicant since his application for 'compassionate appointment' as -

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'Gramin Dak Sewak Vitrak' has been rejected and, therefore, he be relieved of duties of GDSMD charge. The applicant admittedly, handed-over charge on 28th March, 2003 (Annexure A/6 to the OA).

Feeling aggrieved, applicant filed present O.A. on the 'last day' of one year limitation period prescribed under the Administrative Tribunals Act, 1985. There is no explanation as to why the applicant did not approach this Tribunal for redressal promptly, if he, and his family, was in distress requiring immediate mitigation.

Be that as it may, perusal of the impugned order shows that applicant's provisional engagement as 'Gramin Dak Sewak Vitrak' was brought to an end on the sole basis that his application for 'compassionate appointment' was rejected.



The applicant through this O.A. wants this Tribunal to set aside the aforesaid impugned order dated 27th March, 2003/Annexure A-1 to the O.A., without challenging the order rejecting 'application for compassionate appointment'. The applicant, in fact, is aggrieved by the order of rejecting his application for compassionate appointment. The impugned order dated 27th March, 2003 is only a consequential order. Tenor of the pleadings - of the parties shows that they have messed-up and inter-mingled the two issues; viz., (i) rejection of application for compassionate appointment (which is on different facts and considerations to be adjudicated under different rules) and (ii) termination of provisional engagement / appointment as 'Gramin Dak Sewak Vitrak' is governed by Rules, 1964 (replaced by Rules 2001).

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The respondents did not categorically plead in counter-reply that the 'order' rejecting application for compassionate appointment was served/communicated to the applicant.

Learned counsel for the respondents, however, attempted to defend the impugned order by pointing-out that provisional appointment of the applicant was under Rule 8 of Rule 2001 and his termination as 'Gramin Dak Sewak Vitrak' is justified under said Rules. This argument is mis-conceived and not tenable. It is to be seen that in the impugned order - sole ground of relieving the applicant as - 'Gramin Dak Sewak' is rejection of application for 'compassionate ground'. It does not refer to any other basis.



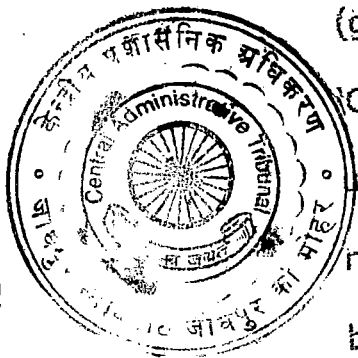
In the ends of justice, we direct the concerned authority to furnish copy of the 'order' rejecting application for compassionate appointment (referred in impugned order Annexure A/1 to the O.A.) to the applicant within four weeks of receipt of a certified copy of this order.

We also direct the concerned authority to pass fresh order permitting the applicant or terminating his provisional engagement as 'Gramin Dak Sewak Vitrak' by taking recourse to such procedure as provided under relevant rules in force at relevant time (i.e. March, 2003). It is made clear that applicant shall not be automatically entitled to be reinstated / or arrears - as per Rule of 'No Work - No Pay' under this order and rights of the applicant concerning his

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employment in this matter shall be subject to the final order passed by the competent authority as stipulated above.

Consequently, we direct the applicant to approach the concerned competent authority - respondent No. 3 (Superintendent of Posts, Head Post Office, Bikaner), to file a comprehensive representation raising his grievance along with complete copy of this O.A. (with Annexures) and a certified copy of this order within four weeks from today and, the competent authority, if representation is filed within the time contemplated above, the said Authority shall pass speaking order (giving reasons) for terminating provisional services of the applicant as 'Gramin Dak Sewak Vitrak' in accordance with law exercising its unfettered discretion within three months of the receipt of representation (if filed as stipulated above). The decision taken, shall be communicated to the applicant forthwith.



Impugned order dated 27th March, 2003 (Annex.A/1) to the O.A. is set aside. O.A. stands allowed to the extent indicated above.

Tarsem Lal
(Tarsem Lal)
Member (A)

A.K. Yog
(A.K. Yog)
Member (J)

Part II and III destroyed
in my presence on 01/14/17
under the supervision of
section officer () as per
order dated 19/8/14
Section officer (Record)

On
7/3/08
Vinod Chaudhary
(for Applicant)

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