

(5/11)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

Original Application No. 231/2006
and
Misc. Application No. 116/2006 (in O.A. No. 231/2006)

Date of order: 24.04.2008

HON'BLE MR. JUSTICE A.K. YOG, JUDICIAL MEMBER.
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER.

Sriram S/o Late Shri Mala Ram Ji, aged about 34 years, resident of Village & Post – Kalyansar, Tehsil – Sri Dungargarh, District – Bikaner (Raj.).

...Applicant.

Shri Y.K. Sharma, counsel for applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi (India).
2. Chief Post Master General, Postal Department, Jaipur (Raj.).
3. Superintendent of Post Office, Churu (Raj.).

...Respondents.

Mr. M. Godara, Advocate, holding brief of
Mr. Vinit Mathur, counsel for respondents.

ORDER

Per Mr. Justice A.K. Yog, Member (J)

Heard Shri Y.K. Sharma, Advocate, learned counsel appearing on behalf of the applicant and Shri M. Godara, advocate, holding brief of Shri Vinit Mathur, learned counsel representing the respondents and perused the pleadings and records of the respective parties.

Am



After perusing the record of the case for quite some time, learned counsel for the parties requested for citing decisions as to whether the amount paid after the death of the employee dying in harness should be taken into account or not while considering the case for compassionate appointment. Learned counsel for the applicant prays for time to file Rejoinder.

We are not inclined to keep this O.A. pending after noticing the facts of the case.

It may be noted that the applicant has not explained the delay satisfactorily as to why he waited for long time i.e. about 3½ years (after filing application dated 28.06.2003 / Annexure A-6 to the Additional Affidavit) before filing this O.A. in the Tribunal i.e. 03.10.2006).

However, in the ends and interest of justice, we allow the M.A. No. 116/2006 (praying for condonation of delay in filing O.A.) but the Applicant must explain it, satisfactorily, before asking for 'compassionate appointment'. Plea of recurring cause of action 'offered by the Applicant' is without merit and misconceived.



This O.A. is liable to be dismissed on the ground that 'Rikta Ram S/o Shri Magha Ram' (whose name find mention in Annexure A/6 to the Additional Affidavit) has not been impleaded as respondent. Application dated 28.06.2003 / Annexure A-6

is, admittedly, still pending and it has not been decided as yet (as alleged by the Applicant).

Lastly, neither the applicant nor the respondents have made effort to bring on record details of other 'family members', their status and income, etc. and how the three married sons (including the Applicant aged about 36 years in the year 2008) have managed their families).

Learned counsel for the parties agreed that the 'department' be directed to consider the application dated 28.06.2003 / Annexure A-6 to the Additional Affidavit filed by the applicant and decide it after holding requisite inquiry.

Accordingly, we direct the applicant to file a certified copy of this order along with complete copy of O.A./Additional Affidavit (with all annexures) and additional representation (if so advised), within four weeks from today before Respondent No. 2 / Chief Post Master General, Postal Department, Jaipur (Raj.) and said authority shall decide the said application dated 28.06.2003 / Annexure A-6 to the Additional Affidavit as well as additional representation (if any filed, as stipulated above), within four months of receipt of certified copy of this order, exercising its unfettered discretion without being influenced by any of the observations made above in this order, as per record before it, in accordance with law.



[Signature]

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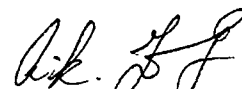
The said authority shall first decide whether application dated 28.06.2003 / Annexure A-6 to the Additional Affidavit (as alleged by the Applicant before this Tribunal) was received in the Department and if it comes to the conclusion that no such application was filed - it shall consign the matter to record and ignore our above direction.



Original Application No. 231/2006 is finally disposed of subject to the above directions.

"No order as to costs".


[R.R. Bhandari]
Member (A)


[A.K. Yog]
Member (J)

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