

21/6/07

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

Original Application No.252/2006
Date of Decision : This the 26th day of February, 2007.

CORAM :

HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER

Om Prakash Jat S/o Shri Mota Ramji Saran, Ex. GDS BPM, Vill. & Post Rodu, Aged about 25 years, R/o Village and Post Rodu, Via Jaswantgarh, District Nagaur.

.....Applicant.

By Mr. S.K.Malik, Advocate, for applicant.

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur. Rajasthan, - 302 007.
3. The Superintendent of Post Offices, Nagaur Division, District - Nagaur. (Raj).

.....Respondents.

By Mr. M. Godara, Advocate brief holder for Mr. Vineet Mathur, for respondents.

ORDER
[BY THE COURT]

Heard the learned counsel for the applicant and the learned counsel for respondents in detail.

2. This very Bench of the Tribunal in its order dated 31.7.2006 passed in O.A. No. 11/2006 had directed the respondents to reconsider the case of applicant for appointment on compassionate grounds in the department of posts. The relevant paras of the said order are reproduced below :-

“6. I have considered the rival contentions put forth on behalf of both the parties. There is no dispute regarding the factual aspect on this case. Admittedly, the family of deceased government servant is having an annual income of Rs. 13000/- from agricultural land and there is no other income from any other source. The family consists of widow, two unemployed major sons and two minor sons. An amount of Rs. 48000/- was paid towards terminal benefits. No family pension is admissible to the widow of an EDA. There is no other source of income to the bereaved family.



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28

- 2 -

7. As far as the legal aspect is concerned, the ED Agents have a special type of employee status. They have been held to be civil servant and their employment has got a trapping of contractual service inasmuch as they are almost part time workers and required to perform duties for lesser period than other full fledged government servants. No pension or family pension is admissible to them. The normal scheme for grant of compassionate appointment to the dependents of full-fledged government servants does not apply to their case for obvious reasons indicated hereinafter. Separate instructions have been issued under Section 10 of the Service Rules for Postal Gramin Dak Sevak by Swamy's, for regulating such appointments. The scheme envisages that such employment to the dependent should be given only in very hard and exceptional cases. It has been specified that the ED Posts are isolated and spread out, therefore, it is necessary that a vacancy caused due to death of ED Agent is filled up by his or her near relative on compassionate grounds. If it were not done, it would be quite difficult to give appointment in hard cases. Certain relaxations in qualification have been provided for the widow. In any case, the applicant possesses the requisite qualification for the post of EDBPM. As a matter of fact in cases relating to Extra Departmental Agents, the compassionate appointment may not have multiple constraints e.g. non-availability of vacancy against 5% direct recruitment quota and comparative hardship constraint; rather the primary requirements would be fulfillment of eligibility conditions of the candidate and the indigence of the family. It seems the respondents have mechanically adduced the reasons for rejecting the claim of the applicant and his case has not been considered in true spirits of the scheme. In the instant case, the position is quite clear that the family getting an income of Rs. 13000/- per annum from agriculture land, it is hardly anything in the present days of price spiral. Therefore, the indigence of the family can hardly be over emphasized.

11. The upshot of the aforesaid discussion leads to an inescapable conclusion that there is ample force in the O.A. and the same deserves to be allowed. The O.A. is allowed. The impugned order dated 19.12.2005 at Annex. A/1 stands quashed. The Respondents are directed to re-consider the case of applicant for grant of compassionate appointment, keeping in view the observations made hereinabove, as expeditiously as possible and in any case not later than three months from today. No costs."

3. Now, in the present O.A., attention was brought to Annex. A/1 dated 19.9.2006 which brings out that the case of Shri Om Prakash Jat has been considered. The operative portion of the said order is reproduced below :-

"In view of the foregoing the Committee does not find the case as indigent even after reconsideration hence the same is rejected."

I find that in the impugned order Annex. A/1 it has also been observed as under :-

"In the light The elder son named Shri Mahabir Pd. is 24 & qualified up to VIII. He is eligible for GDS DA post but did not apply. It appears he must have been doing some thing and earning. He is supposed to help the family."

Jat



989

- 3 -

4. One of the reasons quoted for not finding the case as indigent is the presumption on the part of respondents that the elder son may have been doing something and earning. The respondents on their own had admitted that the elder son Shri Mahabir Prashad is eligible for GDS DA and that he did not apply.



5. As far as the indigency of the family is concerned, this Tribunal's order dated 31.7.2006 is quite clear as brought out in para 10 of that order. I, therefore, find force in this O.A. which is allowed with a direction to the respondents to consider the case of compassionate appointment of Shri Om Prakash Jat or his elder brother i.e. Shri Mahabir Prashad, as per rules and regulations and provide appointment accordingly. This exercise should be done within a period of three months from the date of this order. There is no orders as to costs.

(R.R.Bhandari)
Admv.Member

jrm

File
2/13/14

Part II and III destroyed
in my presence on 02-6-14
under the supervision of
section officer () as per
order dated 2/13/14...

Section officer (Record

63