

P14  
SJK

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, Jodhpur**

**Original Application No. 184/2007**

**Date of decision: 19.08.2008**

**Hon'ble Mr. Tarsem Lal, Administrative Member.**

Bal Krishna Joshi, S/o late Shri Khangar Ram aged 24 years, by caste Brahmin, resident of Village and Post Office Balau Jati, Tehsil Pachpadra District Barmer. (Applicant's father was working on the post of EDMC at Balau Jati Tehsil Pachpadra District Barmer.

: Applicant.

Rep by Mr. A.K. Khatri : Counsel for the applicant

**Versus**

1. Union of India, through Secretary to Government of India, Ministry of Communication, Department of Post India Dak Bhawan, Delhi.
2. The Chief Post Master General, Rajasthan, Western Region, Jaipur.
3. The Post Master General, Rajasthan, Western Region, Jodhpur.
4. Superintendent of Post Offices, Barmer Division, Barmer.

: Respondents.

Rep. By Mr. M. Godara proxy counsel  
For Mr. Vinit Mathur : Counsel for respondents.

**ORDER**

**Per Mr. Tarsem Lal, Administrative Member.**

Bal Krishna Joshi has filed this O.A and prayed that the impugned orders dated 23.11.2006 (Annex. A/1) and 01.12.2006 (Annex. A/2) passed by respondents 3 & 4 respectively, may be declared as illegal and be quashed and set aside. He has further prayed that the respondents may be directed to consider again the application of the applicant for compassionate appointment for the post of GDS MC.



-2-

2. The facts as relevant to the case are that the father of the applicant was appointed as EDMC at Balau Jati in tehsil Pach Padra, District Barmer on 15.02.1980, vide order dated 16.08.1989 (Annex. A/3). Applicant's father Shri Khangar Ram died on 01.05.2005 and a copy of death certificate dated 05.05.2005, issued by the Registrar, Birth and Death Registration is placed at Annex. A/4. Mother of the applicant (widow of late Khangar Ram) Smt. Paru Devi moved an application dated 16.09.2005 (Annex. A/5) before respondent No.4 for granting compassionate appointment to him. The applicant also moved an application dated 28.09.2005 (Annex. A/6) before respondent No. 4 seeking compassionate appointment.

3. When the applicant had applied for his appointment on the post of EDMC, he was 8<sup>th</sup> class passed (Annex. A/7). Subsequently, the applicant submitted a certificate of Sarpanch dated 19.09.2005 (Annex. A/8) regarding movable and immovable properties held by the applicant's family. A certificate dated 08.09.2005 (Annex. A/9) was issued by Patwari showing the annual income of the family as Rs. 24,000/- The applicant has claimed that he has his own house to live in and 20 bighas land. There is an income of Rs. 24000/- per annum in the family and the family has got terminal benefits to the tune of Rs. 48,000/-



4. Respondent No. 4 wrote a letter dated 26.09.2006 (Annex. A/10) to Respondent No. 3 stating that the applicant has passed 10<sup>th</sup> standard privately.

-3-

5. Subsequently, the applicant received impugned order dated 01.12.2006 (Annex. A/2) intimating that his application for compassionate appointment has been rejected by the Regional Officer, Jodhpur vide order dated 23.11.2006. Aggrieved by the orders dated 23.11.2006 (Annex. A/1) and 01.12.2006 (Annex. A/2), the applicant has filed this O.A and prayed for the reliefs given in para 1 above.

6. The respondents are contesting the O.A by filing a detailed reply stating that the applicant is the elder son of Shri Khangar Ram, 8<sup>th</sup> passed and had applied for compassionate appointment. All the documents received on 04.01.2006 were duly verified by the Inspector of Post Offices (IPO for short) Balotra and thereafter the same were sent to the office of 3<sup>rd</sup> respondent vide letter dated 09.01.2006. Thereafter the applicant submitted his mark sheet of 10<sup>th</sup> standard pass through IPO Balotra on 21.09.2006 which was sent to the office of respondent no. 3 on 26.09.2006. The minutes of the meeting of Circle Relaxation Committee (CRC for short) dated 24.08.2006 were circulated vide CPMG, Jaipur letter dated 26.10.2006. The same were received through Regional Office letter dated 23.11.2006. The CRC did not consider the applicant as indigent and rejected the case vide Circle Office letter dated 26.10.2006. In the said letter dated 26.10.2006, the applicant's name i.e. Shri Bal Krishna Joshi, S/o late Shri Khangar Ram Joshi, Ex GDSMC/ MD Balau Jati, Barmer Division figure at Sl. No. 52. He was awarded 31 marks. The relevant portion reads as under:



-4-

" Shri Khangar Ram Joshi, Ex. GDSMC expired on 01.05.2006, leaving behind widow, two married sons, one married daughter and one unmarried son. He was due to retire on 11.08.2019. The family has own house to live in and 20 bigha land. There is Income of Rs. 24000 per annum in the family. The family got terminal benefits of Rs. 48,000/- . The elder son of the deceased who is qualified upto 8<sup>th</sup> class has applied for his appointment on compassionate ground. The case is not indigent. Hence rejected."

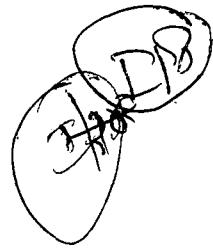
7. The respondents have also pleaded that the applicant has not exhausted the departmental remedies available to him before approaching this Tribunal and the O.A filed by the applicant is premature and the same deserves to be dismissed on the ground of having not availed the alternative remedy available to him.

8. The learned counsel for the parties have been heard. The learned counsel for the applicant has stated that the applicant has been wrongly awarded 31 marks whereas he ought to have been awarded 55 marks as per the details given below and therefore he should have been offered compassionate appointment. In support of the above contention, he relied on OM No. 14014/6/94- Estt.(D) dated 09.10.1998, issued by the M/o Personnel, Public Grievances and Pension, D/o Personnel and Training, Govt. of India.

Sl. No.	Group/head		Marks
1.	Family pension	---	20
2.	Terminal benefits	Rs. 48,000	10
3.	Family's annual Income	Rs.24,000	3
4.	Movable & immovable properties	Rs.1,00,000/-	6
5.	No. of dependents	2	10
6.	Left over service	10 to 15 years	6
		Total	55

9. In view of the above the learned counsel for the applicant has claimed that he is entitled to get 55 marks, whereas the CRC has awarded 31 marks incorrectly, on the basis of which he has not been considered for compassionate appointment. The learned





—5—

counsel for the applicant therefore prayed that his case may be reconsidered by the competent authority and the applicant may be given compassionate appointment with immediate effect.

10. The learned counsel for the respondents pleaded that as regards the family pension is concerned, as no family pension is admissible to GDS categories, none of the candidate including the applicant has been awarded marks on account of family pension. He further reiterated that the applicant's case has been considered in accordance with the orders on the subject issued by the M/o Personnel, Public Grievances and Pension, D/o Personnel and Training, Govt. of India, New Delhi.

11. The learned counsel for the applicant again submitted that if no marks are awarded under the head 'family pension', even then the applicant is entitled to get 35 marks as per the table given above and therefore his case should have been recommended by the CRC and compassionate appointment should have been given to the applicant by the competent authority.

12. I have considered this case very carefully and perused the documents placed on record. It is seen that Khangar Ram died on 01.05.2005 (Annex. A/4) and the mother of the applicant had requested for compassionate appointment on 16.09.2005. The applicant has also submitted his application for compassionate appointment on 28.09.2005 and the relevant information relating to the movable and immovable properties of the applicant was



(P)

(P)

(P)

-6-

furnished to the respondents and thereafter the case of the applicant was considered by CRC and the applicant has been awarded 31 marks. As the applicant has secured less than 35 marks his case had not been recommended for compassionate appointment by the competent authority. It is considered that as per the details given above the applicant was entitled to get 35 marks, whereas his case has been wrongly rejected by the CRC.

13. In view of the above discussion, I am of the considered opinion that the interest of justice would be met if the respondents are directed to re-consider the case of the applicant for compassionate appointment. Accordingly, the respondents are directed to re-consider the case of the applicant for granting compassionate appointment against any future vacancy of the year 2008 and if he is found suitable for the post of EDMC as per rules, he may be given appointment on compassionate grounds. In case the respondents are not in a position to grant compassionate appointment, a detailed speaking order may be passed by them and communicated to the applicant. The above exercise may be done within a period of four months.

14. The O.A is disposed of with the above direction. No costs.

  
 Tarseem Lal  
 [Tarseem Lal]  
 Administrative Member.

Jsv.

Received copy of order  
A. G. Smith  
21.8.08

Sykes