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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

ORIGINAL APPLICATION NO. 84/2009

Dated this the 13th day of April, 2011

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HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

Kum. Rami D/o late Shri Kalu Ram,
By caste Brahmin, aged about 28 years
Resident of Village Iyara, Tehsil Sujangarh
District Churu. Rajasthan. ...Applicant

(By Advocate Mr. Randev Potalia)

Vs.

1. Union of India, through its Secretary
To the Government of India, Ministry of
Communications, (Postal Department)
Dak Tar Bhawan, New Delhi.

2. The Chief Post Master General,
Rajasthan, Jaipur.

3. The Post Master General, Rajasthan,
Western Zone, Jodhpur.

4. The Superintendent of Posts,
Churu Division, Churu.

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5. The Inspector (posts)
Post Office, Ratangarh,
District Churu. Respondents

(By Advocate Mr.M.Godara proxy counsel for Adv.Vinit Mathur)

ORDER

HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER

Applicant Kumari Rami daughter of Shri Kalu Ram, (deceased employee) who was working as GDSMC at Iyara Post Office, Churu District and died in service has preferred this Original Application claiming grant of relief to quash and set aside the impugned order dated 11.5.2007 and to issue order for allowing the application of the applicant for her appointment on compassionate grounds with other reliefs for which the applicant is found entitled and also with costs of the application.

2. The brief facts of the case are as follows:

The father of the applicant namely, Kalu Ram was serving under the respondent department on the post of GDSMC at Iyara Post Office and while in service he died on 6.2.2002. After his death the applicant being the daughter of the deceased employee and who is still unmarried and has studied upto middle school, applied in the year 2002 for appointment on compassionate grounds annexing residential certificate (Annexure.A2) Mark Sheet (Annexure.A3), death certificate of her father (Annexure.A4) and consent letter of other legal representatives (Annexure.A5). But even after lapse of a period of about 4 years the respondents department did not take any action on her application and on 31.3.2006 the respondents department sought the details of income through letter dated

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31.3.2006 (Annexure.A6). Thereafter the applicant submitted representation annexing income certificate and other details of the property along with the certificate of Tahsildar and Sarpanch of Grama Panchayat vide Annexure.A7. During the above period the applicant also filed representation(reminder) as well as legal notices and prayed to appoint her on compassionate grounds but the respondents did not take any action on the application for compassionate appointment for several years and lastly on 11.5.2007 vide Annexure.A1 the respondents rejected the prayer of the applicant for compassionate appointment without incorporating any sufficient reason for rejecting the prayer and without passing any speaking order. The contention of the applicant is that the respondent department did not consider the application of the applicant filed in the year 2002 along with its enclosures (Annexures.A2,A3 A5 and A7) and the impugned order will show that the respondents department only considered the representation (reminder) of the applicant dated 2.9.2006 which establishes this fact that the order (Annexure.A1) was passed in a mechanical manner and without applying mind by the competent authority and so the same deserves to be quashed and set aside.

3. On filing of the OA notices were issued to the respondents and in reply to the notices respondents appeared through lawyer and filed reply of the OA. As per the reply of the respondents their case is that on receipt of the application for

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compassionate appointment from the applicant, the case was forwarded by the authority to the Circle Relaxation Committee and the Committee considered her case objectively in its meeting held in the month of April, 2007 and after considering the case in accordance with the rules and policy on the subject it was found that the deceased employee had one residential house to live and had left 14 bigha agricultural land. It was further found that after his death Rs.59432/- was paid to the family as terminal benefits and that the case was 5 years old as such on the above grounds the application for compassionate appointment of the applicant was rejected by the Circle Relaxation Committee. Further contention of the respondents is that the financial condition of the family of the deceased was not indigent and as such the case of the applicant was rightly rejected.

4. Shri Ramdev Potalia, Advocate appeared on behalf of the applicant whereas on behalf of the respondents Shri M.S.Godara, proxy counsel for Advocate Vinit Mathur appeared and argued the case.

5. During the course of arguments learned advocate appearing for the applicant drew our attention towards Para 4.6 of the reply of the respondents in which the respondents have admitted that the applicant had preferred application for appointment on compassionate grounds as early as in the year 2002 i.e., on 23.4.2002 which was received in the office of SPO, Churu on 29.4.2002 and the same was sent to IPO, Ratangarh for completion

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of documents and consent of other dependents of the deceased family by SPOs Churu on 30.4.2002. He submitted that this statement of respondents at Para 4.6 clearly establishes that the applicant had filed application for appointment on compassionate grounds as long back as in the year 2002 and if any delay is caused in disposal of this application it was due to the act of negligence of the respondents and not the applicant. He submitted that Annexure.A1 which is under challenge will show that the respondents did not at all consider the application of the applicant for compassionate appointment which was filed in the year 2002 and that is why the reference has been made in Annexure.A1 that the application for compassionate appointment which was considered by the Circle Relaxation Committee was dated 2.9.2006. He submitted that these facts establishes that the impugned order was passed in a mechanical manner without applying mind by the competent authority with regard to the details submitted by the applicant in her original application in the year 2002. The learned advocate of the respondents could not give any satisfactory reply on this submission made by the learned advocate of the applicant.

6. We have perused Annexure A1 which clearly establishes that the Circle Relaxation Committee had not considered the original application of the applicant which was filed in the year 2002 for proving her appointment on compassionate grounds rather the Circle Relaxation Committee had simply considered the

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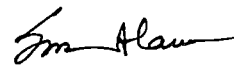
representation/reminder of the applicant dated 2.9.2006. This shows that the Circle Relaxation Committee did not properly applied mind while considering the case of the applicant for compassionate appointment. Even the order (Annexure.A1) shows that it is not a speaking order and does not speak about the reasons given by the Circle Relaxation Committee in rejecting the prayer of the applicant for compassionate appointment. Thus we are of the view that the applicant has got a very good case in her favour for quashing and setting aside the impugned order Annexure.A1.

7. On the basis of the above discussions, we find and hold that this OA has got merit and as such the same is hereby allowed and accordingly Annexure.A1 is hereby quashed and set aside and the respondents are directed to consider the application of the applicant for compassionate appointment filed in the year 2002 and to pass a reasoned and speaking order afresh in accordance with law within a period of three months from the date of receipt/production of a copy of this order. In the circumstances of the case, there will be no order as to costs.

Dated this the 13th day of April, 2011



SUDHIR KUMAR
ADMINISTRATIVE MEMBER



JUSTICE S.M.M. ALAM
JUDICIAL MEMBER

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