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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

**Original Application. No. 377/2011**

**Date of decision: 28.09.2012.**

**CORAM:**

**HON'BLE DR. K.B.S.RAJAN, MEMBER (JUDICIAL)**

Kishore Kumar S/o Late Shri Narendra Kumar Patidar aged about 32 years, resident of Village Asoda, Tehsil Garhi, District Banswara (Raj), dependent son of Ex. Group 'D' employee Sh. Narendra Kumar, Department of Posts India, Dungarpur.

**Applicant**

**[Mr. N.S.Khileri, Advocate]**

**Versus**

1. The Union of India through the Secretary, Department of Post & Telegraph, Ministry of Communciation, Government of India, Dak Bhawan, New Delhi.
2. The Post Master General, Rajasthan Southern Region, Ajmer - 305 001.
3. The Senior Superintendent of Post Offices, Dungarpur Divison, Dungarpur - 314001.
4. The Assistant Postmaster General (S&V), IO/o the Chief Postmaster General, Rajasthan Circle, Jaipur.

**Respondents**

**[Mr.Vinit Mathur along with Mr. Ankur Mathur, Advocates]**

**O R D E R**

This is the second round of litigation. Earlier, in OA No. 55 of 2007, decided on 16<sup>th</sup> of August 2007, vide Annexure A-15, this Tribunal passed the following order:-

*"13.This case has been carefully considered and documents perused. It is seen from the impugned order dated 24.01.2007 (Annexdure A/1) issued by the Superintendent of Post Offices, Dungarpur Division, Dundgarpur that the same is not a detailed speaking order. It has not been indicated as to how many total vacancies were there for direct recruitment and how many have been filled on the basis of compassiaonte appointment basis. The number of candidates who were cosnidered and the number of*

**candidates appointed on the compassionate basis have not been indicated. The marks obtained by the candidates who have been appointed vis-a-vis the marks obtained by the applicant have not been indicated. The comparative indigent conditions of the candidates who were considered for compassionate appointment have not been indicated. It is also not clear from the impugned order as to how many times the case of the applicant has been considered by the competent authority.**

**14. In view of the above discussion, the respondent-department may re-consider the applicant's request for compassionate appointment and if he is found otherwise suitable, the applicant could be offered compassionate appointment depending upon the vacancy position and the rules and regulations to fill up such vacancies."**

2. In compliance to the above order, the respondents considered the application for compassionate appointment on the 14<sup>th</sup> of November 2007 and on the ground that the family is not in indigent condition, rejected the case. Annexure A-1 refers. It is this order that has been assailed in this original application.

3. The main grounds adduced include the following:-

**"That while allowing the O.A. filed by the applicant, the Hon'ble Tribunal was pleased to hold certain guidelines and also directed to reconsider the candidature of the applicant in the light of the directions but the respondent - authorities without considering the directions in the true and later spirit, straightway rejected the request of the applicant for appointment on compassionate grounds and passed the impugned order contrary to the order of the Hon'ble Tribunal, which is not sustainable in the eyes of law. Hence, the impugned order dated 07.08.2009 deserves to be quashed and set aside."**

4. Respondents have contested the OA. They have contended that the applicant, being over 25 years of age, cannot be brought within the ambit of dependent and therefore he is not eligible for compassionate appointment. It has further been

contended that the DOP&T O.M. dated 22-06-2011 clarifies that 5% quota for compassionate appointment is to be worked out with reference to DR vacancies in each recruitment year finally of road for filling up by the prescribed screening committee under optimisation policy of the government contained in OM dated 16-05-2001 and accordingly, 5% quota for compassionate appointment was worked out against the direct recruitment quota for the year 2006 and the CRC was held on 14-11-2007 to reconsider the cases including that of the applicant in compliance with the order of this tribunal dated 14<sup>th</sup> of August 2007 in O.A. No. 55 of 2007. After a balanced, comparative and objective assessment, it was found that the applicant was not in indigent condition. It is for this reason that the case of the applicant was rejected. The respondents have thus considered the case of the applicants in the light of the directions given by the tribunal and as such the decision cannot be faulted with.

5. The applicant has filed his rejoinder to the reply reiterating the contentions made in his OA.

**Counsel for the applicant argued as under :**

6. The applicant's father was only a group 'D' employee at the time of his demise on 11-11-2005. His mother applied for compassionate appointment for her son, vide letter dated 17-11-2005. The father of the applicant had taken loan during his lift time and the same was liquidated from the terminal benefits. The family, though owns certain immovable properties, the yield from the same is meager. The applicant being ninth pass, he could have been easily accommodated in any of the Group D

posts under the Compassionate appointment scheme. The delay in filing the application had also been explained and the same being only for about 9 months, request was made for condonation of delay, especially when the application merits consideration. The counsel further submitted that the ground for rejection of his case had been earlier considered by the Tribunal in its order dated 16-08-2007 in OA No. 55 of 2007 and the respondents were directed to reconsider the application, as the order of rejection was not a speaking order. The present impugned order also is only in the same style as the earlier one and the directions of the Court have not been complied with.

**Counsel for the respondents argued as under :**

7. The applicant being more than 25 years of age cannot be considered as dependent of his late father during the latter's life time, much less now.

8. Arguments were heard and documents perused. Objection as to the applicants being over 25 years of age cannot be considered as the dependent of the deceased for the purpose of compassionate appointment. The directions given by the Tribunal have already been complied with and now the case of the applicant is more than 5 years old which could not come within the ambit for reconsideration under the provisions of DOP&T O.M. dated 09-10-1998 and 05-05-2003. The applicant was already informed that as the clarification received from DOPT dated 22-06-2001, 5% quota for compassionate appointment is to be worked out with reference to DR vacancies in each recruitment year finally approved for filling up by the prescribed Screening Committee and accordingly vacancies were

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computed for the year 2006 and CRC meeting was held on 14-11-2007. 32 applications were considered and after a balance, comparative and objective assessment of financial condition of the family the case of the applicants was not found to be in indigent condition in comparison with that of the approved candidates.

9. Arguments were heard and documents perused. First as to the contention that the applicant being over 25 years cannot be considered as dependent. This objection has to be summarily rejected for the simple reason that the rules do not anywhere specify as such. Rather, the rules would go to show that the term dependent family member includes son (including adopted son) and there is provision for age relaxation. As regards the other contention, it is seen that the respondents had considered the case of the applicant, perhaps only once and that too working out the 5% quota for compassionate appointment as per DOP&T order dated 20-06-2001. This order has been modified vide order dated 14<sup>th</sup> June, 2006 which inter alia reads as under:-

***"On a demand raised by Staff Side in the Standing Committee of the National Council (JCM) for review of the compassionate appointment policy, the matter has been carefully examined and taking into account the fact that the reduction in the number of vacancies for compassionate appointment is being caused due to operation of the orders on optimization of direct recruitment vacancies the following decisions have been taken: -***

***While the existing ceiling of 5% for compassionate appointment may not be modified but the 5% ceiling may be calculated on the basis of total direct recruitment vacancies for group C and D posts (excluding technical posts) that have arisen in the year. Total vacancies available for making direct recruitment would be calculated by the the vacancies to be filled on the basis of compassionate appointment from the vacancies available for direct recruitment in terms of existing orders on optimization."***

10. Since the above order does not seem to have been followed, the applicant is entitled to be considered keeping in view the vacancy position as per the said order. The case of the respondents is that since the applicant could not be through on comparative merits with reference to others, possible that had the vacancy been worked in accordance with the above order, which should have been followed, his case could be through. Of course, at this distance of time the vacancy for the earlier years cannot be rescheduled and the situation reviewed, as the same would result in settled things being unsettled. As the applicant's case has to be considered three times, and as it appears that his case had been considered only once, that too with constricted number of vacancies, the applicant could be considered along with other pending cases as on date in the next CRC meeting and if the applicant's case meets the parameters prescribed for compassionate appointment, he may be granted the same. Instead, if more deserving cases are available, the applicant be informed by a reasoned and speaking order.

11. With the above directions, the OA is disposed of. No time limit is prescribed in this case for compliance, as the compliance of the order is related to the holding of the meeting of the CRC the date for which is to be scheduled by the authorities concerned.

  
[DR. K.B.S. RAJAN]  
JUDICIAL MEMBER

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