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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 66/2012

Jodhpur this the 7th day of May, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Manish Kumar Sharma, aged about 26 years, S/o late Sh. Bheru Lal Sharma, by caste Sharma (Baregam), resident of Sri Ram Colony, Near Nandwana Samadhi, Kapasan, Tehsil Kapasan, District Chittorgarh (Raj.) Father was working Ex-Smark Parichar, Jaipur Division, Jaipur.

.....Applicant

(None present)

Versus

1. Union of India through the Secretary, Ministry of Culture, Govt. of India, 502-C, Shastri Bhawan, New Delhi.
2. The Director General, Archeological Survey of India, Ministry of Culture, Govt. of India, Janpath, New Delhi.
3. The Superintending Archeologist, Archeological Survey of India, Jaipur Circle, 70/133-140, Patel Marg, Mansarovar, Jaipur (Raj.)
4. The Senior Conservation Assistant, Archeological survey of India, Western Sub Circle, Chittorgarh (Raj)

(Through Advocate Ms K. Parveen)

..... Respondents

ORDER (Oral)

By way of this application, the applicant has sought following relief(s) :

- (a) *This original application may kindly be allowed and by an appropriate order of direction the impugned order/communication F.No. 1/JPR/Vya.Fa./Gha-/Admn. 7827 dated 31.01.2011 passed by the respondent No. 3 i.e. The*

Superintending Archeologists, Archeological Survey of India, Jaipur Circle, 70/133-140, Patel Marg, Mansarovar, Jaipur (Raj.) may kindly be declared illegal and quashed with all consequential benefits and the respondents may further be directed to give compassionate appointment to the applicant atleast on the post of Monument Attendant or any other post/higher post in place of his father late Sh. Bheru lal Sharma with all consequential benefits.

- (b) By any other relief, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the applicant.*
- (c) That the cost of this application may kindly be awarded in favour of the applicant.*

2. The short facts of the case are that the applicant's father was working as Monument Attendant in the respondent-department and he died on 08.01.1996 while in service. Applicant's mother submitted application for compassionate appointment on 11.12.1996. After attaining the age of majority, a representation on 22.08.2003 was submitted by the mother of the applicant and ultimately after several reminders and representations, the case of the applicant was considered for the first time and his application was dismissed by the order dated 31.01.2011 (Annex. A/1). Therefore, this OA has been filed for the relief (s) narrated in para No. 1.

3. By way of counter, the respondent-department averred that appointment on compassionate grounds is not a right but it is only a welfare measure to save the family of the deceased employee from penury, immediate financial destitution and starvation consequent on the death of the employee and such employment can be given

limited only to 5% of the vacancies arising against direct recruitment quota. Respondent-department further averred that in this case, the family of the deceased employee had received gratuity Rs 49,711/-, Group Insurance Rs 18,283/-, leave encashment Rs 20,432/- and GPF Rs 37,049/- and family pension of Rs 3500/- + DA. Therefore, it cannot be said that the family of the deceased is in a state of financial destitution. By way of reply various grounds raised in the OA have been denied. It has also been averred in the reply that application of the applicant was examined by the committee and committee did not find applicant's case fit for appointment on compassionate grounds. Therefore, respondent-department prayed to dismiss the OA of the applicant. The counsel for the respondents in support of the reply annexed Annexs. R/1, R/2, R/3. Annexure R-3 is the letter by which applicant was conveyed the decision on his application for appointment on compassionate grounds. R/1 is letter issued by the respondent No. 3 to respondent No. 2. R/2 is letter issued by the Section Officer to the respondent No.3 communicating the decision of the committee.

4. I have perused the pleadings of the parties and also the documents annexed with the application as well as the reply. Although, counsel for the applicant is not present but after perusal of the documents there is sufficient grounds to infer that Annex. A/1 letter by which the candidature of the applicant was rejected is not a speaking order and it does not refer any reasons for which his application was rejected. It only speaks that after considering all

the facts, applicant was not found fit for appointment on compassionate grounds. While informing the applicant about rejection of his candidature, the respondent-department should have informed the reasons and grounds for rejection of candidature of the applicant for appointment on compassionate grounds. In my considered view Annex. A/1 cannot be said to be well reasoned or speaking order by which grounds for rejection of his case were conveyed to him elaborately or in clear terms.

5. Accordingly, the OA is allowed and Annex. A/1 is quashed. The respondents are directed to consider the case of the applicant as per relevant rules within 3 months from the date of receipt of this order. It is further directed that respondents shall convey the decision/result of the committee by way of speaking and reasoned order. There shall be no order as to costs.


(Justice K.C. Joshi)
Judicial Member