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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

Original Application No. 18/2012

Jodhpur this the 28th day of May, 2013.

CORAM

Hon'ble Mr. Justice K. C. Joshi, Judicial Member

Manish Vyas S/o Late Shri M.K. Vyas aged about 32 years, resident of Kabutron Ka Chowk, Bhajan Choki, District Jodhpur, Rajasthan (Applicant's father died while in service with the respondent department on the post of Administrative Officer, Akashwani, Jodhpur.)

....Applicant

(Through Advocate Mr. R.S.Sekhavat)

Versus

1. Union of India through the Secretary, Ministry of Information and Broadcasting, Government of India, New Delhi.
2. The Director General, S-2 Section, All India Radio Station, New Delhi.
3. The Centre Director, Prasar Bharti, Broadcasting Corporation of India, Indian Prasaran Nigam, All India Radio Station, Jaipur.
4. The Director, All India Radio Station, Paota 'B' Road, Jodhpur.

(Through Advocate Smt. Kausar Parveen))

..Respondents

O R D E R (Oral)

By way of this Application the applicant has challenged the legality of the order Annex.A/1 stating that Annex.A/1 cannot be said to be a speaking and reasoned order and the competent authority has not considered the case of the applicant in accordance with the circular issued by the Department from time to time and, therefore, sought the relief to quash the Annex.A/1 and to direct the respondents to give applicant appointment on compassionate grounds.

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2. The short facts of this case are that the applicant's father was working with the respondent-department. While in service, the applicant's father passed away. After that the applicant approached the respondent – authority for compassionate appointment. The Station Director, Prasar Bharti, Broadcasting Corporation of India, All India Radio, Jodhpur, forwarded the application for appointment on compassionate grounds of the applicant to the Centre Director, Prasar Bharti, All India Radio, Jaipur. The action of the respondents in not giving the compassionate appointment to the applicant is illegal being contrary to the provisions of law. The applicant served a legal notice and being aggrieved by the order Annex.A/1, has presented the present O.A. Earlier OA No. 256/2011 has been filed by the applicant in which the respondents were directed to look into the matter and pass an appropriate speaking order within two months.

3. The respondents by way of counter denied the allegations stating that the case of the applicant has been considered in accordance with the provisions of the law and the relevant orders in force from time to time and his case was considered vis-à-vis other eligible persons but due to the non-availability of vacant posts under the 5% quota available for compassionate appointments, the applicant could not be appointed on compassionate grounds.

4. The respondent – department in support of their counter annexed various documents including the Minutes of the Meeting

dated 29.08.2008, 13.05.2009, 10.08.2010 and 24.01.2011 and on this ground prayed to dismiss the petition.

5. Heard both the counsel for the parties.

6. The counsel for the applicant contended that Annex.A/1 order cannot be said to be a speaking and reasoned order because by way of this order it has not been informed to the applicant that how he was less meritorious to the other candidates and how the marks were allotted to the applicant and further two persons recommended in 2008 and 2009 were in what way more meritorious to the applicant. The counsel for the applicant further contended that the financial condition of the applicant is very bad and after the death of his father, it is very difficult for him to pull-on the regular expenditure but, these facts and financial status has not been considered properly by the concerned authority.

7. Per contra, the learned counsel for the respondents contended that Annex.A/1 order is a speaking order and it shows that for the year 2008, 2009, 2010 and 2011 his case was considered by the competent authority and the Committee did not find it suitable for appointment on compassionate grounds for three years on the ground of non – availability of vacant post under the 5% quota fixed for compassionate grounds.

8. I have pondered over the arguments put forth by both the counsel for the parties and perused the relevant records.

9. The order Annex.A/1 does not refer that who were the more meritorious persons than the applicant and how much marks have been allotted to them vis-à-vis the applicant and what was the position of the financial status or immovable property hold by the applicant vis-à-vis other candidates. A Division Bench of this Tribunal decided several cases in which directions have been issued to the respondents to provide the details of the marks obtained by the applicant vis-à-vis other candidates and it is appropriate to inform the applicant about the marks obtained by him vis-à-vis other candidates so that he can access his condition by the documents provided by the department.

10. Accordingly, the order at Annex.A/1 is quashed and the respondents are directed to pass a fresh speaking and reasoned order by mentioning the marks obtained by the applicant as well as other eligible candidates and to convey the same to the applicant within three months from the date of receipt of a copy of this order. In case of any grievance remains with the applicant then he can file a fresh O.A. No order as to costs.



(Justice Kailash Chandra Joshi)
Judicial Member

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