

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00123/14

Jodhpur, this the 19th day of May, 2016

CORAM

Hon'ble Mr. U.Sarathchandran, Judicial Member
Hon'ble Ms. Praveen Mahajan, Administrative Member

Smt. Kamla Meena w/o Late Sh. Kana Ram, aged about 45 years,
r/o Village Rojara, Tehsil Netra, via Sumerpur, District Pali,
Rajasthan, w/o Ex. Mail Peon at Head Post Office under Senior
Superintendent of Post Offices, Jodhpur, Rajasthan.

.....Applicant

By Advocate: Mr. S.K.Malik

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur, Rajasthan
3. The Senior Superintendent of Post Offices, Jodhpur division, Jodhpur.
4. Superintendent of Post Offices, Pali Division, Pali, Marwar.

.....Respondents

By Advocate : Mr. K.S.Yadav

ORDER

Per Ms. Praveen Mahajan, Administrative Member

The applicant has approached this Tribunal seeking appointment on a Group-D post from the date of approval by the respondents – Ann.A/2 dated 5.8.1993.

2. Briefly stated, facts of the case are that the applicant's husband died on 10.6.1992 while serving on the post of Mail Peon Group-D in the Head Post Office, Jodhpur in the Department of Communication. Immediately after the demise of her husband, the applicant moved an application for appointment on compassionate grounds. After considering the facts, on 5.8.1993 (Ann.A/2) she was informed by the respondent department that her appointment to the post of Non-Test Category (NTC) Group-D has been approved.

Thereafter, for a period of almost 7 years, no appointment letter was issued to her despite her approaching the respondents time and again. Each time, she was assured that she will be given joining as and when a post becomes vacant. On 01.03.2001 (Ann.A/3), a letter was issued to her by the Superintendent of Post Offices, Jodhpur stating that though her appointment was approved for Group-D post, but the same is not vacant, hence she cannot be given appointment on the said post. The applicant was asked to give her consent for considering her for alternative appointment for a vacant post, in other Department/Ministry. The applicant gave her consent letter on the same date i.e. on 01.03.2001. After six months, on 7.9.2001 (Ann.A/4), the applicant was informed that no post was vacant in other Department/Ministry as well, and that she was now being

considered for being given an appointment on the post of Gramin Dak Sevak (GDS). Another consent letter was asked for from her, indicating options of three places of posting. Being in a state of distress, the applicant replied on the same day giving her options (Ann.A/4).

Two years later on 15.1.2003, respondent No.3 informed respondent No.4 that request of the applicant for the post of GDS has to be processed by their office as per directions of Headquarters office, Jaipur (Ann.A/5). Hence, papers of the applicant were forwarded for processing to Pali Division. However, vide letter dated 24.01.2003 (Ann.A/6), the applicant was informed by respondent No.4 that no appointment can be given to her as no post of GDS was vacant at Pali.

Thereafter, the applicant went from pillar to post seeking sympathetic consideration and met respondent Nos. 3 and 4 many times. Repeatedly, she was told that appointment will be given to her, as and when a post becomes vacant.

On 17.12.2012 (Ann.A/7), she approached Pali Division, where a post of GDS and Group-D was reportedly, lying vacant, but was told by respondent No.4 (Ann.A/8) that since her husband was an employee of Jodhpur Division, her request was to be processed there.

To her query under the RTI, the applicant was informed by respondent No.4 that in Pali Division, 9 persons have been given appointment as GDS from 31.10.2005 to 06.02.2012 (letter dated 28.01.2013 (Ann.A/10). The names of appointees, alongwith appointment dates of the selected GDS have been produced by the respondents. Subsequently, status of vacant and sanctioned posts at Sumerpur and Khinwari was also supplied to the applicant by respondent No.4 vide letter dated 22.03.2012, in response to her RTI application dated 12.3.2013 (Ann.A/14). The applicant avers that, thereafter, on 29.04.2013/01.05.2013 (Ann.A/16), the respondent No.3 wrote to respondent No.4 that the applicant was allotted Pali Division for providing appointment on compassionate grounds vide Jaipur office letter dated 24.12.2001, hence further action was to be taken by officials at Pali. Respondent No.4 informed respondent No.3 that no post of NTC Group-D has been sanctioned and the matter being 12 years old (also letter dated 24.12.2001 being untraceable), appointment to the applicant is not possible (Ann.A/17). In response to another application under RTI, the applicant has been informed on 24.10.2013 by respondent No.3, that necessary action for her appointment on compassionate grounds was to be done by the Pali Division as per directions issued by Jaipur Head Office (Ann.A/20).

Subsequently, she moved another representation dated

office authorised to process her case for compassionate appointment (Ann.A/21). To this, respondent No.3 informed on 26.2.2014 (Ann.A/23) that the information cannot be made available since it did not come under the category of information u/s 2(f) of the RTI Act. Aggrieved with the shabby treatment meted out to her and exhausted by protracted correspondence with the respondents, she has approached this Tribunal for redressal of her grievance. Her prayer is:-

- i). By an appropriate writ order or direction respondents may be directed to give appointment to the applicant on any Group "D" post from the date of approval by respondent No.2 with all consequential benefits including arrears of pay and allowances.
- ii) By an order or direction exemplary cost may be imposed on the respondents for causing undue harassment to the applicant.
- iii) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.

3. In their reply, the learned counsel for the respondents states that the candidate gave her willingness for the post of GDS but she did not have prescribed qualification and hence could not be offered the post of GDS. As per him, the applicant remained silent from 2003 to 2013 and took up her case for appointment only in the year 2013, which was dealt with by the Superintendent of Post Offices, Pali Division. The respondents did not delay the case wrongly rather they have rightly rejected her case on account of

her not being found eligible for the post. Initially, the case was considered by the Circle Relaxation Committee and she was approved for the post of Group-D on 21.7.1993. She was accordingly informed vide letter dated 05.08.1993. Subsequently, the Department discontinued maintenance of waiting list of approved candidates as per DOPT OM dated 22.06.2001 (Ann.R/4) (Page 88 of the paper book) due to which the candidature of the applicant could not be considered. The learned counsel for the respondents further submitted that efforts were made by the Department to place her in service of other administrative departments, but there being no vacancy available, the efforts did not fructify. Hence there was no wilful neglect on part of the respondents.

4. We have considered the rival contentions of both sides and perused the documents on record. We find that the applicant has suffered all these years for no fault of hers. After the death of her husband on 10.06.1992, she approached the respondents for compassionate appointment. After due consideration, she was informed that her appointment to the post of NTC Group-D has been considered and that the Chief Postmaster General, Rajasthan Circle has approved her case. Surprisingly, thereafter no action was taken by the Department to give her an appointment. It is an admitted fact that the applicant was informed that her

appointment has been approved by the Committee. The plea to the effect that a vacancy did not exist at a subsequent stage, is neither acceptable nor condonable. The letter of appointment could not have been issued without there being a vacant Group-D post available. The contention of the respondents that case of the applicant could not be considered to Group-D post since practice of having a panel of wait listed candidates was done away in the year 2001 is also not correct. It was never the case of the respondents that the applicant was in the wait-listed panel for compassionate appointment.

5. It was only at the behest of the respondents that she applied for the post of GDS, to which, she was subsequently found to be ineligible. Here, non application of mind of the respondents is reflected in each step-beginning from asking her option to the discovery of her being not qualified/ineligible for the said post – since her plight and educational qualifications were already in the know of the respondents.

We find that a case study of this OA and the way it has been dealt with by the respondent department, is not only a matter of shame, but also a **very serious reflection on how respondents have flagrantly abused the scheme of compassionate appointment – both in letter and spirit. To camouflage their**

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incompetence (in case the letter informing the applicant of

her appointment was issued without ascertaining the availability of the post), they have even gone to the extent of not divulging information under the RTI Act, which could showcase their wrong doings qua the applicant.

The applicant was unnecessarily made to shuttle between Pali and Jodhpur offices, despite clear orders dated 24.12.2001 of Jaipur Head Office, referred to by respondent No.3 (Ann.A/16). This letter was conveniently glossed over by respondent No.4, as being untraceable (Ann.A/17).

To compound the chain of arbitrariness, posts of Group-D as well as GDS were filled up- by respondent No.4 (Superintendent of Post Offices, Pali Division) (Ann. A/10) when case of the applicant was still under consideration. We, therefore, direct respondent No.2 - CPMG, Jaipur to take note of the aforementioned facts of the case, enquire into the matter and take necessary action as deemed fit, against the erring officials.

So far as the contention of the learned counsel for the respondents that the applicant has approached this Tribunal after a lapse of about 10 years is concerned, we have considered this aspect and in the peculiar circumstances of this case and that the letter of appointment has already been issued to her in the year 2003, we condone the delay, if any.

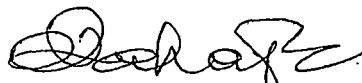
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We, therefore, direct the respondents to consider the case of the applicant, for the post for which she was initially selected i.e. Non Test Category Group-D vide appointment letter dated 5.8.1993 (Ann.A/2) within a period of four months from the date of receipt of a copy of this order.

7. We also observe that the applicant's dignity has been highly compromised all these years. The inhumane treatment given to the applicant by the respondents has not only affected her socially and economically but would have also shattered her sense of dignity and self confidence. The respondents have dealt with her case in an extremely irresponsible and insensitive manner. Her case for compassionate appointment has been delayed for almost 23 years due to apathy and indifference of the respondents. We, therefore, impose a cost of Rs. 10,000/- on the Department and direct them to recover the same from the official at whose behest the appointment letter was issued (without ascertaining the availability of vacancy) and pay to the applicant.

8. The OA stands disposed of in above terms.



(PRAVEEN MAHAJAN)
Administrative Member



(U.SARATHCHANDRAN)
Judicial Member