

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 557/2006

This the 14th day of July, 2008

HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

Pankaj Sharma aged about 23 years son of Sri Shiv Narain, Resident of 12, Telephone Exchange, Barabanki.

Applicant

By Advocate; Sri V.K.Tripathi

Versus

1. Union of India through Secretary, Ministry of Posts, New Delhi.
2. Regional Recruitment Committee for Compassionate Appointment, Lucknow through its Chairman.
3. Superintendent of Post Offices, Barabanki Division, Barabanki.

Respondents

By Advocate : Sri K.K.Shukla

ORDER

BY HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

The applicant has filed the Original Application with a prayer to quash the impugned rejection order dated 26.4.2005 passed by respondent No. 2 and also direction to the respondents for his appointment on compassionate ground.

2. The respondents have filed Counter Reply denying the claim of the applicant and also further stated that the claim of the applicant is barred by limitation.
3. The applicant has filed Rejoinder Reply reiterating the pleas taken in the O.A. and also denied the stand taken by the respondents.
4. Heard both sides.
5. The point for consideration is whether the applicant is entitled for relief as prayed for.
6. The admitted facts of the case are that the father of the applicant late Sri Shiv Narain died on 3.10.2002, while working on the post of Packer in the Head Post Office, Barabanki. He died leaving behind him, his wife, three sons

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and a daughter. Thereafter, the applicant made a representation on 29.10.2002 (Annexure -3) to the respondent No. 2 for his appointment on compassionate ground and subsequently he also furnished documents as required by the authorities. But the respondents have rejected his claim for compassionate appointment vide order dated 26.4.2005 (Annexure No.1) which is under challenge in this O.A. on the ground that the respondents have not considered all the facts and circumstances mentioned in his application and rejected without any reasons and thus challenged to quash the same. It is the case of the respondents that they sent the rejection order Annexure No.1 to the applicant on the same date i.e. on 26.4.2005 and filed copy of RL No. 7324 dated 26.4.2005. The applicant has filed this O.A. on 17.11.2006.

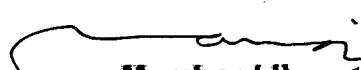
7. The applicant has challenged the rejection order dated 26.4.2005 (Annexure No1) under which the respondent No.2 rejected the claim of the applicant for compassionate appointment on the ground that no reasons have been assigned in the rejection order and thus the same is illegal and arbitrary and liable to be quashed. But the respondents have taken main objection stating that the claim of the applicant is barred by limitation since they have ^{sent} supplied the copy of rejection order to the applicant on the same date i.e. on 26.4.2005 itself and in support of it, he relied on RL 7324 dated 26.4.2005 (Annexure CA-1). In view of such objection, it is the duty of the applicant to satisfy that his claim is within limitation.

8. It is the specific case of the applicant that the rejection order Annexure No.1 dated 26.4.2005 was served upon him on 26.12.2005. The respondents case is that they have sent the copy of the order of Annexure No.1 on 26.4.2005 i.e. on the same date of the order and relied on Annexure CA-1 which reveals sending of such order copy on 26.4.2005 only. Admittedly, it is not the case of the respondents that the same was served on the applicant on 26.4.2005 and further they are silent in respect of service of order on applicant. Added to it, the respondents have not filed any acknowledgement in respect of service of copy of Annexure No. 1 to the applicant which they have sent

through Annexure No. CA-1 dated 26.4.2005. Without filing of any such acknowledgement, mere sending the copy of rejection order Annexure No.1 dated 26.4.2005 does not satisfy for taking limitation on the ground that the same was supplied or served on the applicant on 26.4.2005. In the absence of any such acknowledgement, this Tribunal has no option except to accept the contention of the applicant that he was served the rejection order dated 26.4.2005 (Annexure No.1) on 26.12.2005 only. Admittedly the applicant filed this O.A. on 17.11.2006, which is within one year from the date of receipt of copy of rejection order and as such, the O.A. is within time and as such the objection raised by the respondents on the point of limitation is not at all maintainable and thus decided against the respondents.

9. Coming to the rejection order Annexure No1 dated 26.4.2005, no reasons are assigned for rejecting the claim of the applicant for his appointment on compassionate ground and it simply says that the case of the applicant was not recommended by the Regional Recruitment Committee for Compassionate Appointment of Divisional Office, which is not at all reasoned order to know on what grounds or reasons his claim was rejected and such an order without ~~assailing~~ ^{furnishing} of any reasons is not at all a reasoned order in the eyes of law and as such the applicant is justified in challenging the same.

10. In the result the O.A. is allowed, quashing the impugned rejection order covered under Annexure No.1 dated 26.4.2005 with a direction to the respondents to reconsider the claim of the applicant for his compassionate appointment and pass a reasoned order as per rules within a period of three months from the date of receipt of copy of this order. No order as to costs.


Member (J)

16-07-2008

HLS/-