

Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No.112/2008

This the ^{AR} 5th day of October, 2012

Hon'ble Sri Justice Alok Kumar Singh, Member (J)

Manoj Kumar Singh aged about 26 years son of late Sri Ram Bahadur Singh, r/o House No. 551 Chha/14 Ka/1Ka, Nara Sardari Khera, Alambagh, Lucknow.

Applicant

By Advocate: Sri Janardan Pandey

Versus

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Senior Superintendent, Railway Mail Service 'O' Division, Lucknow-4.

Opposite Parties

By advocate: Sri S.K.Tewari

(Reserved on 28.9.2012)

ORDER

BY HON'BLE SHRI JUSTICE ALOK KUMAR SINGH, MEMBER (J)

Late Ram Bahadur Singh died in harness on 24.1.98 while working as Assistant Shorter in the office of opposite party no.3. His widow preferred a representation on 10.9.98 for appointment of his elder son (applicant) on compassionate ground (Annexure No.3). At that time, the approximate age of applicant was about 16 years. After about 3 years, i.e. on 16.7.2001, after attaining the age of majority, the applicant himself moved a representation (Annexure -6) but the claim was rejected by non-speaking impugned order dated 7.5.2004 (Annexure-1). Thereafter, few representations were made by the applicant in the year 2004, 2005, 2006 and 2007 (Annexure 7 to 13) but without any result. The applicant obtained certain information under RTI contained in Annexure 15, according to which the Circle Relaxation Committee met in the following years:-

1998	-	Twice
1999	-	Once
2000	-	No meeting
2001	-	No meeting

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2002	-	Once
2003	-	Once
2004	-	Once

2. The applicant preferred a review/ revision which was rejected by Chief Post Master General vide order dated 26.3.2007 without disclosing any reasons (Annexure 2).

3. The respondents contested the O.A. by filing a detailed CA saying that late Ram Bahadur Singh died on 24.1.1998 leaving behind his widow Smt. Maina Devi, two minor sons namely Master Manoj Kumar Singh and Master Dilip Kumar Singh and one unmarried daughter namely Manju Singh. An amount of Rs. 2,89,927/- has been paid to the family of the deceased employee as terminal benefits. Besides, family pension of Rs. 2250/- (pre revised) + DAR per month. The family of the deceased employee is living in his own house and it also possess agricultural land of 899 Hectare having annual income of R.s. 3000/- per annum. After receiving the application of the widow for compassionate appointment in favour of his elder son Manoj Kumar Singh, the matter was considered by the Circle Relaxation Committee keeping in view the various instructions on the subject issued by the DOP&T and circumstances of the deceased employee and availability of vacancies for compassionate appointment within 5% quota for direct recruitment. The peculiar circumstances, the number of dependents, liability of the family like education, marriage of daughter, ailment of family members and purpose of securing shelter and value of movable and immovable property etc. were also considered. But in comparison to other applicants, the case of the applicant was not found more deserving for being appointed within the limited vacancies under the quota. The representation for reconsideration was found to be without any substance, therefore, it was also rejected.

4. Rejoinder Reply has been filed by the applicant reiterating the averments of the O.A.

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5. I have heard the learned counsel for the parties and perused the entire material on record.

6. The first limb of argument on behalf of the applicant is that he attained the age of adulthood in 2001. As per material brought on record, the following number of persons were considered for compassionate appointment from 2002 onwards:-

2002	-	Seven
2003	-	Fourteen

But there is no averment that name of the applicant was not considered in the aforesaid meetings in the year 2002 and 2003. In the year 2004, his case was considered but was not recommended as conveyed by impugned order dated 7.5.2004 (Annexure 1). The learned counsel for applicant pointed out that in the years 2004, 2005 and 2007 also, 14, 16 and 36 claims were recommended for compassionate appointment but despite his representation, his name was not reconsidered and vide letter dated 26.3.2007, it was conveyed to him that no justification has been found for reconsideration of the case of the applicant (Annexure 2).

7. Now, we come to the impugned order (Annexure 1) which is as under:-

"The case of appointment of Sri Manoj Kumar Singh on compassionate grounds was considered by Circle Relaxation Committee under the provisions of Deptt. O.M. No.14014/6/95-Estt (D) dated 26.9.95, 14014/6/94-Estt (DA) dated 9.10.98 and 14014/23/OC-Estt (D) dated 3.12.99 and other instructions issued from time to time on the subject and was not recommended for appointment by the Committee taking into account the liability of the family like education of minor children, marriage of daughters, responsibility of aged parents, prolonged and major ailment of a member, availability of dependable and secure shelter and financial condition and other relevant factors, after inter-se-consideration of all the cases and also keeping in view the prescribed ceiling for appointment on compassionate grounds.

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The applicant may be informed accordingly in speaking terms under intimation to this office."

8. From the perusal of the above order, this Tribunal does not find any indication as to on the basis of which material, the conclusion was arrived at. It is not clear as to what were the materials before the Circle Level Selection Committee to conclude that the family was not in indigent condition. The perusal of the impugned order further shows that some comparative study of the case of the applicant vis-à-vis other cases was made. But again, there is no chart in a tabular form or otherwise, showing any such comparative study of the cases. Presently, we are living in the age of transparency. Such orders should demonstrate application of mind. Giving of reasons ensures application of mind and it also prevents unnecessary litigations. At the cost of repetition, it may be mentioned that transparency is supposed to be one of the significant component of real justice and as said above, in the absence of any material on record showing comparative study of all the cases, it cannot be said as to whether or not, there was proper application of mind in rejecting the claim of the applicant after making comparative study.

9. On the point of absence of indication as to how the respondent authorities arrived at the relevant conclusion, the learned counsel for applicant has placed reliance on the case of *Manoj Kumar V. Union of India and others reported in (2007) 8 Supreme Court Cases, 398.*

The relevant part of para 7 of judgment is extracted below

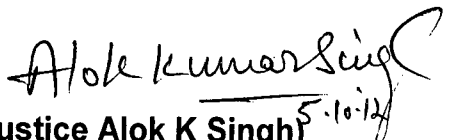
"Para 7- There is no indication as to on the basis of which materials the conclusion was arrived at. It is also not clear as to what were the materials before the Circle Level Selection Committee to conclude that the family was not in financially indigent condition."

10. The aforesaid case law applies with substantial force in the present case. Finally, therefore, in view of the above discussion, the O.A. is allowed. The impugned order dated 7.5.2004 (Annexure 1) is hereby

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Vide note at
12.10.12. Singh

quashed. The respondents are directed to reconsider the claim of the applicant afresh in accordance with the relevant instructions issued from time to time on the subject and also keeping in view the prescribed ceiling for appointment on compassionate grounds by passing a reasoned and speaking order expeditiously. No order as to costs.


(Justice Alok K Singh)^{5.10.12}
Member(J)

HLS/-