

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 387/2008.

This the 11th day of September, 2009

Hon'ble Dr. A. K. Mishra, Member (A)

Ashutosh Srivastava aged about 26 years s/o Ayodhya Prasad Srivastava
R/o Village-Katari P.O. Katari, Distt. Pratapgarh.

Applicant

By Advocate Sri U.C. Srivastava.

VERSUS

1. Union of India through Secretary Ministry of Telecommunication
Government of India Communication (Sanchar) New Delhi.
2. Chief Post Master General, Uttar Pradesh, Lucknow.
3. Superintendent of Post Office, Pratapgarh Mandal Pratapgarh.

Respondents

By Advocate Sri Azmal Khan.

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant is seeking a direction to the respondent authorities to consider him for appointment on compassionate ground.

2. It is the case of the applicant that his father, who worked as Village Post Master at Katari, District Pratapgarh, was suffering from heart ailments and was unable to perform his duties. Therefore, he allowed the applicant to perform the duties of Village Post Master Katari on 13.9.2009. Both the applicant and his father have been representing to the respondent authorities for applicant's appointment on compassionate grounds, but to no result. Hence this application.

3. The grounds taken in this application are as follows:-

- i) that the applications for appointment have not been considered arbitrarily ;
- ii) that the indigent circumstances of the family have been ignored;



- iii) that the condition of the family has worsened after his father's heart disease was detected and the liability on the family increased, to that extent, in taking care of the patient;
- iv) that the applicant has good experience in managing the work of the Village Post Office as he was deputizing on behalf of his father.

4. The respondents have stated that the applicant's father has retired on 8.11.2008 after attaining the age of superannuation (65 years). It was at the fag end of his service career that he expressed the desire for compassionate appointment of his son in his place. It is contended that the retired employee was never ill and continues to be in normal state of health. He was asked by the respondent authorities to submit a medical certificate from the Chief Medical Officer Pratapgarh, which he has failed to do so.

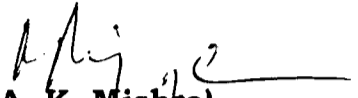
5. I find from the certificate at Annexure -2 that it has been issued by somebody on the basis of an out patient diary (OPD) entry. The certificate itself states that it is not valid for medico-legal purposes. If the applicant is claiming disability of his father on medical ground, it is surprising that he has not furnished any document pertaining to the heart disease diagnosed by any heart specialist and the treatment undertaken in that behalf. Similarly, the so called charge report at Annexure -2 is an arrangement between the father and the son without any authority. The applicant has placed reliance on a judgment of Supreme Court in the case of V. Sivamurthy versus State of Andhra Pradesh and Others (2008) 13 SCC-730 to contend that medical invalidation of a serving government employee, who becomes incapacitated, is a more severe case than that of the death of a government servant. However, the same judgment also states in unequivocal terms that compassionate appointment is not permissible where an employee seeks voluntary retirement on medical grounds on the verge of his superannuation,

6. I find that the applicant's father completed his full tenure as Village Post Master and retired on attaining the age of superannuation. There is no case that he was invalidated while he was in service. Clearly, the paper relating

2

to charge report between him and the applicant has been managed by them to set up a ground for future appointment of the applicant in his place. There was no authority for such an arrangement. Hence I don't see any merit for issue of any direction to the respondent authorities in this case.

7. The original application is dismissed. No costs.


(Dr. A. K. Mishra)
Member (A)

vidya