

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

Original Application No. 44/2011

This the 14th day of February, 2017

Hon'ble Shri Justice V.C. Gupta, Member - J

Pankaj Sharma, aged about 27 years, Son of Sri Shiv Narain, R/o 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 S. Lal

ORDER (ORAL)

Heard the counsel for the applicant and counsel for the respondents and perused the records.

2. The brief facts giving rise to this petition are that the applicant Pankaj Sharma applied for compassionate appointment on account of death of Sri Shiv Narain, Ex Group 'D' working in Barabanki Division in Post Office on the post of GDS Packer. He applied for compassionate appointment and his application was considered and disposed of on 05.02.2010. The operative portion of the order reads as under:

"6.The family was also not found indigent circumstances in comparison to the cases which were recommended for appointment on compassionate grounds by the Circle Relaxation Committee within the limited number of vacancies under the compassionate appointment quota. As maximum time limit for compassionate appointment a prescribed under G.I. Department of Per & Trg. OM No. 14014/19/2002-Estt(D) dated 5th May 2003, has since expired, this case has been treated as closed."

6/15

3. The facts reveals that the claim of the applicant was closed in pursuance of Office Memo dated 05.05.2003. The limitation expressed in O.M. dated 05.05.2003 was lifted by another O.M. of DoPT dated 26.07.2012. The case of the applicant is covered by the judgement rendered by this Tribunal in O.A No. 440/2012 decided today. The relevant portion of the judgement as contained in Para 25, 26 and 27 are extracted herein below:

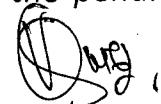
"25. The effect of the decision of A.P.Asha after implementation of Asha Mishra's case by the Appropriate Authority/ Government in the above mentioned situation would be that OM dated 26.07.2012 will continue in operation till any changes are made by the Appropriate Authority/Government in the light of A.P. Asha's case. However in view of Judgement in A.P.Asha's case the cases closed due to non availability of vacancy and for availability of more deserving candidates for compassionate appointment despite penurious condition of the family of the deceased/ Ex-employee could not be reopened automatically. Moreover, the possibility cannot be ruled out that after close of cases in the light of OM dated 05.05.2003 that the candidates have taken/made some other source of livelihood and the family ceases to be in penurious condition or the candidates may not be interested in getting the appointment under the policy. Therefore reopening of such cases cannot and should not be automatic. But at the same time in exceptional situation such cases may be considered again. These exceptions may be surmised as follows:-

(a) Cases which are pending against the orders of closer in the light of OM dated 05.05.2003 in any Courts / Tribunals.

(b) Where the Ministries/ departments/ PSUs has taken a decision to reopen such cases

(c) Where the case was closed due to non availability of vacancy and for availability of more deserving candidates for compassionate appointment despite penurious condition of the family of the deceased/ Ex-employee continues and candidate makes a prayer to reconsider his case but subject to limitation under the relevant statute.

BUT if any matter has been closed by passing an order of declining the claim of any candidate on merit after taking into consideration the penurious condition



of the family of deceased / Ex-employee and not in the light of OM dated 05.05.2003, the benefit of OM dated 26.07.2012 cannot be extended in such cases.

26. In view of the aforesaid discussions this Tribunal is of the view that the order impugned is not sustainable as the same is covered by condition (a) of paragraph 25 aforesaid.

27. Hence, the impugned order dated 12.10.2012 is set aside. The respondents are directed that the case of the applicant will be considered after reassessing the penurious condition in accordance with scheme of compassionate appointment as and when the vacancies for compassionate appointment under 5% quota would be available as per scheme. Needless to say that while considering the candidature of the applicant for compassionate appointment if more deserving candidates will be available, the applicant will have no right to be appointed in terms of the order passed by this Tribunal and he shall be considered strictly in accordance with the scheme for compassionate appointment."

4. Hence, the O.A is allowed in terms of the aforesaid order. There shall be no order as to cost.


(Justice V.C. Gupta)
Member (J)

RK
Corrigendum
11/08/2017

11/08/2017