

CENTRAL ADMINISTRATIVE TRIBUNA LUCKNOW BENCH LUCKNOW

Original Application No. 186/2007.

Lucknow this, the ^{10th} day of July, 2008

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

Vinod Tripath, aged about 36 years,
Son of late Ayodhya Prasad Tripathi,
Resident of Village-Pure Tiwari (Gugwachh)
Post Officer-Dewrha, District-Sultanpur.

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 Officers,
Sultanpur Mandal Sultanpur.

Respondents.

By Advocate: Sri K.K. Shukla for Dr. Neelam Shukla

Order

By Hon'ble Mr. M. Kanthaiah, Member (J)

The applicant has filed the original application with a prayer to quash the impugned rejection order dated 22.2.2007 passed by Respondent No. 2 on the ground that they did not consider his claim properly and issue direction to the respondent for his appointment on the post of Group 'C' under Dying in harness rules.

2. The respondents have filed counter affidavit denying the claim of the applicant stating that the rejection order has been passed in accordance with rules.

3. The applicant has filed rejoinder affidavit denying the stand taken by the respondents and also reiterated his pleas in the original application.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the father of the applicant, late Ayodhya Prasad Tripathi while working under the respondents as Sub Post Master, Post Office Ramganj, District Sultanpur, died on 17.5.2000. Thereafter, the applicant made a representation-dated 15.12.2000 for his appointment on the post of Group 'C' on the ground of dying in harness and thereafter he also made several other applications. The respondents have rejected the claim of the applicant and issued a rejection order covered under Annexure A-4 dated 17.7.2002. Aggrieved by such rejection order, the applicant filed O.A. 328/2003 challenging the impugned rejection order Annexure A-4 dated 17.7.2002 and the same was disposed of on 16.9.2005 with a direction to the respondents to reconsider the claim of the applicant for compassionate appointment in the light of DOP&T O.M. dated 5.5.2003 by passing a detailed and speaking order within a period of 3 months from the date of receipt of copy of the order. Annexure A-8 is the copy of the judgment and order in O.A. No. 328/2003. In pursuance of the orders of the Tribunal, the respondents have passed orders covered under Annexure A-1 dated 22.2.2007 under which, they rejected the claim of the applicant for his appointment on compassionate ground, which is under challenge in this O.A.

7. In the year 2002, the respondents have rejected the claim of the applicant for his appointment on compassionate ground covered under Annexure A-4 dated 17.7.2002 which the applicant challenged by filing O.A. 328/2003. The grounds given for rejection of the claim of the applicant under Annexure A-4 are as follows

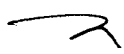
- (I) Official completed more than 34 years of service,
- (II) Family has own house and getting pension Rs. 3400+ D.A. P.M.
and
- (III) Family has got terminal benefits Rs. 5,20,512/-

8. After hearing the matter, this Tribunal disposed of the earlier O.A. 328/20033 with a direction to the respondents to reconsider the claim of the applicant for compassionate appointment in the light of DOP&T O.M. dated 5.5.2003. In pursuance of such direction, the respondents have reconsidered the

claim of the applicant by placing the matter before Circle Relaxation Committee which held on 16th January 2007 in which, they did not consider the claim of the applicant for compassionate ground on the following reasons which they have mentioned in the impugned order Annexure A-1 dated 22.2.2007- (I) the father of the applicant expired on 17th May 2000 and he was due to retire on superannuation on 31st July 2004, which is the similar ground as 1st in Annexure A-4 dated 17.7.2002. IInd ground in Annexure A-1 is that the family had received the admissible amount of Rs. 5,20,512/- as terminal benefits and in receipt of family pension @ Rs. 3400/- plus dearness relief as admissible from time to time. This is also similar ground as given in Annexure 4 as second and 3 ground.

9. In addition to the earlier reasons, the respondents have furnished additional ground in Annexure A-1 that after lapse of more than 6 years, providing immediate assistance as required under the scheme is not justified. When the applicant made his claim immediately after the death of his father and further when such claim is pending with the respondents it is not open to the respondents to say that providing of immediate assistance as required under the scheme is not relevant in the case of the applicant after a lapse of more than 6 years and such objection is not justified. Such an objection is open to the respondents, if the applicant made his request after a lapse of considerable period. As such, the reasons given by the respondents in Annexure A-1 for rejecting the claim of the applicant for grant of compassionate is not at all maintainable.

10. While disposing the earlier O.A. in 328/ 2003 dated 16th September 2005, this Tribunal ^{gave} ~~give~~ direction to the respondents to reconsider the claim of the applicant for compassionate appointment in the light of DOP&T OM dated 5.5.2003. But while reconsidering the claim of the applicant they have not taken note of the guidelines of DOP&T dated 5.5.2003 as directed by the Tribunal and without complying such directions, passing of any orders covered under annexure -1 is not at all an order in the eyes of law. Thus, the applicant is



justified in questioning the validity of the rejection order covered under Annexure A-1 dated 22.2.2007.

11. In view of the above circumstances, the O.A. is disposed of with a direction to the respondents to reconsider the claim of the applicant for his appointment on compassionate ground as per rules in force and by taking note of the direction given by this Tribunal in its earlier order dated in O.A. No. 328/2003 with a reasoned order within a period of 3 months from the date of receipt of copy of this order. No costs.

(M. Kanthaiah)
Member (J)

10-07-2008

v.