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Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 127/2008

This, the ^{5th} day of June 2009

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

Pappu Kumar aged about 27 years, son of late Sri Ramawadh, resident of Village Gahila, Post Satraon, Block Bhagalpur, Tehsil Barhoz, District Deoria.

Applicant.

By Advocate Sri R. K. Singh.

Versus

1. Union of India through its Secretary, Ministry of Water Resources, Central Water Commission, New Delhi.
2. Under Secretary (O&M) Room No. 326, Sewa Bhawan, R. K. Puram, New Delhi.
3. Superintending Engineer © Upper Ganga Basin Organisation, Central Water Commission, Jahanvi Sadan, 22/496, Indira Nagar, Lucknow-226016.
4. Executive Engineer, Central Water Commission, Middle Ganga Division No. 1, Jaltarang Bawan Pratap Bagh, Aliganj Lucknow.
5. Assistant Engineer Upper Rapti Sub Division, Gonda.

Respondents.

By Advocate Sri Atul Dixit for Sri S. N. Mishra.

Order

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

The applicant has filed the O.A. with a prayer to set aside the order dated 22.2.2006 (Annexure A-1) and also with a direction to the respondents for his appointment under dying in harness rules on the ground that he is entitled for such appointment and further respondents have not given justified reasons for rejecting his claim and further alleged that the selection made under the scheme was only on pick and chose policy.

2. The respondents have filed C.A. denying the claim of the applicant stating that the claim of the applicant was considered by the Compassionate Appointment Committee in which he had secured lowest points of 36 and as such his claim was not allowed for his appointment.
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3. The applicant has filed rejoinder denying the stand taken by the respondents and also stating that committee did not follow the rules while awarding points to the candidates and thus there was illegality in awarding marks to him.

4. Heard both sides.

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

6. The brief facts of the case are that the father of the applicant, late Ram Awadh while working as Wireless Operator in Central Water Commission at Gonda died on 13.10.2002 leaving behind the applicant his two elder brothers namely Vinod Kumar and Cheddu one younger brother Keshav and two unmarried sisters namely Seema and Meena and old aged mother namely Singari Devi. Thereafter, the applicant has made an application for appointment on compassionate ground. Admittedly only two vacancies one each for Group C and D post were available under compassionate scheme for which Compassionate Appointment Committee considered the total claims of 16 candidates including the applicant on 25.1.2006. The applicant made his application for appointment under Group D post. But as per the marks awarded by the committee, the applicant secured 36 points whereas, other 6 candidates applied under Group D got above marks and as such, the respondents have rejected his claim for appointment vide rejection order dated 22.2.2006 (Annexure A-1) stating that his claim was not considered because of non-availability of sufficient number of vacancies.

7. The respondents have filed counter affidavit along with the documents in respect of the proceedings of compassionate appointment committee, showing the details of marks/points obtained by the candidates including the applicant and also internal instructions for awarding marks/points to the candidates. Annexure CR-4 is the office memorandum dated 19th September 2005 which is the internal instructions for compassionate appointment under

which they have awarded marks/points taking into account of family pension, terminal benefits, monthly income of earning members, moveable or immoveable properties, number of minor children and left over service of the deceased and awarded marks/points to the candidates. Annexure CR-3 is the statement showing the list of persons applied and also marks obtained by each of the candidate basing on the marks/points fixed under internal instructions covered Annexure CR-4.

8. In the statement Annexure-CR-3, the name of the applicant was shown at Serial No. 7 and he secured total marks/points 36 whereas, other candidates Serial No. 1, Smt. Aparna Acharjee got 66 marks, serial No. 2 Anju got 70 marks and other candidates also secured more than the applicant except serial No. 4 Smt. Jaya . It is the case of the applicant that while awarding points/marks, the committee has wrongly awarded less marks/points to him stating that there are 7 dependents of his deceased father whereas, the authorities have taken note of only 6 for which, they have awarded 15 points. Similarly, in respect of unmarried daughters, they have shown only one and awarded 5 marks whereas, he got 2 unmarried sisters for which he is entitled for 10 points. Similarly, he has disputed the value of property amount of Rs. 1,25,000/- as shown by the committee. Thus he is stated that committee did not consider his case basing on the actual facts and as such he secured less marks or points.

9. From the face of the record, it is clear that the deceased left over his four sons, two daughters, his wife thus total number 7, out of which, two daughters admittedly, unmarried but the committee has not taken such figures correctly while awarding marks / points to the applicant and as such there is every possibility of getting less marks to the applicant. This circumstances clearly shows that the committee while considering the claim of the applicant for his appointment on compassionate appointment, they have not correctly assessed and on that ground, the applicant is justified in

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questioning the validity of rejection of his claim for appointment on compassionate ground and as such he is justified in challenging the same.

10. In view of the above, circumstances, the impugned order dated 22.2.2006 (Annexur-A.1) is quashed with a direction to the Respondent No. 2 to reconsider the claim of the applicant for his appointment on compassionate ground in the next meeting as per Rules and pass reasoned order and thus O.A. is allowed. No costs.


(M. Kanthaiah)

05-06-2009

Member (J)

V.