

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 187/2008

This the 2nd day of December, 2011

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

Shashi Kant Ojha aged about 27 years son of late Sri Balram Ojha, r/o Plot No.176, House No. B-32/52, Saket Nagar, Lanka, Varanasi

Applicant

By Advocate: Sri Ashish Pandey

Versus

1. Union of India through the Secretary, Department of Posts, Central Secretariat, New Delhi.
2. Chief Post Master General, UP Circle, MG marg, Lucknow.
3. Senior Superintendent of Post ,East Region, Varanasi.
4. Chief Post Master, General Post Office, Varanasi.

Respondents

By Advocate: Sri P.K.Srivastava for Sri N.H. Khan

ORDER (Dictated in Open Court)

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

This O.A. has been filed for the following reliefs:-

- i) to issue a suitable order or direction setting aside the rejection order dated 30.3.2007 contained in Annexure No.2 to the Original Application.
- ii) To issue a suitable order or direction directing the opposite parties to give the compassionate appointment to the applicant under dying in harness rules.
- iii) To issue such other order or direction as this Hon'ble Tribunal may deem fit and proper, and
- iv) To award the costs of the Original application to the applicant

2. The case of the applicant is that his father Sri Balram was a Group D Postman in General Post Office, Varanasi who died in harness on 31.1.2001. The applicant's application for appointment has been rejected by Circle Relaxation Committee vide order dated 30.3.2007 (Annexure 2). Therefore, he moved representation dated 3.8.2007 (Annexure 3) which is still pending.

AM

3. From the other side, the claim of the applicant has been contested on the ground that the case of the applicant was considered by the Circle Relaxation Committee in its meeting 16 and 18.1.2007 under the relevant provisions and instructions issued from time to time. But his case was not recommended on account of limited number of vacancies and also on account of inter-se-merit of other cases vis-à-vis case of the applicant considering liabilities and indigence of the family such as number of dependents, minor children, marriage of daughters, responsibility of aged parents etc.

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

5. The learned counsel for the applicant placed reliance on the case of Mukesh Kumar Vs. Union of India and others reported in (2007) 8 Supreme Court cases, 398. The relevant paragraph 7 is as under:-

“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 material before the Circle Level Selection Committee to conclude that the family was not in financially indigent condition. To add to it, both CAT and the High Court proceeded on factually erroneous premises, as has been highlighted by the appellant and noted supra. Above being the position, the appeal deserves to be allowed, which we direct. The orders of the Central Administrative Tribunal and the High Court are set aside. The matter is remitted to the Central Administrative Tribunal, Chandigarh Bench for fresh hearing. Parties shall be permitted to place material in support of their respective stand.”

6. At this stage, the impugned order was thoroughly perused. Apparently, the claim has been rejected on two grounds. The one is limited number of vacancies and the other is comparative financial condition of the family and its responsibilities.

AP

7. But there is no indication as to on the basis of which material this conclusion was arrived at. It is also not clear as to what was the material before the committee to conclude that the family was not in indigent condition as observed in the aforesaid paragraph 7 of the judgment of the Hon'ble Apex Court. Further, it is also not ascertainable as to what material was available before the committee to make a comparative study between the case of the applicant vis-à-vis other cases. Though, in para 4 of the CA, reference has been made to liabilities, number of dependents, minor children, marriage of daughters, responsibilities of aged parents prolonged and major ailments, financial conditions etc. but in the impugned order, there is no such mention and moreover, there is nothing to reveal as to what material was available on the basis of which the committee arrived at the relevant conclusion. It goes without saying that justice should not only be done but it should appear to have been done. Similarly, transparency is supposed to be one of the significant component of real justice, which is certainly lacking in the impugned order. Therefore, in view of the preposition of law laid down by the Hon'ble Apex Court in the aforesaid case law and also in the light of the observation made hereinabove, this O.A. deserves to be allowed and it is so ordered with a direction that the respondents shall dispose of the pending representation dated 3.8.2007 (Annexure 3) of the applicant in the light of the aforesaid observations expeditiously preferably within 3 months from today. No order as to costs.


(Justice Alok Kumar Singh)
Member (J)

HLS/-