

Central Administrative Tribunal, Lucknow Bench,

Lucknow

Original Application No. 405/2008

This the 26th day of May, 2010

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

Rameshwar Prasad Tripathi, Aged about 32 years, S/o late Sri Krishna Pyare Tripathi, GDS MC Lakhmipur, EDBO (A/o Ram Nagar), District Ambedkar Nagar, R/o Village & Post Office Lakshmipur, EDBO (A/o Ram Nagar), District Ambedkar Nagar.

.....Applicant

By Advocate: Sri R.S. Gupta.

Versus

1. Union of India through the Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P. Circle, Lucknow.
3. Sr. Superintendent of Post Offices, Faizabad.

.....Respondents

By Advocate: Sri Alok Trivedi for Sri G.K. Singh

ORDER

This Application has been filed with a prayer to set-aside the order dated 31.12.2007 of respondent-authorities in which representation of the applicant for compassionate appointment was rejected and also for a direction that the matter should be reconsidered by the competent authority under Dying-in-harness Rules.

2. Father of the applicant died while working as GDS Mail Carrier (MC) on 1.6.2007 leaving behind three adult sons, one adult daughter and three minor children. The applicant applied for appointment under Dying-in-harness Rules. Father of the applicant owned 1.307 hectare agricultural land and monthly income from this property was approximately Rs. 2000/- per month. According to the applicant, this income was insufficient to maintain the large family. The case of the



applicant, therefore, should have been favourably considered as per guidelines of the Government, instead of being rejected mechanically. He placed reliance on the judgment dated 18.7.2003 of this Tribunal in O.A. no. 315 of 2003 in which respondents were directed to place the name of the applicant in that O.A. in the waiting list. He is also placing reliance on the judgment of High Court in Writ Petition no. 265 of 2006 in which respondent authorities were directed to reconsider the matter in the light of the observations made in that case.

3. At the time of hearing, the learned counsel for the applicant submits that the representation of the applicant was mechanically disposed of by the respondent authority by means of a cyclostyled order without giving detailed justification, or comparative merit of the applicant as against other candidates who were being considered.

4. The learned counsel for the respondents submits that the case of the applicant was considered by the Circle Relaxation Committee (CRC) and after taken into consideration all factors applicable as per Government guidelines in the matter, the committee did not find the case of the applicant deserving. By way of justification, it has been mentioned in the impugned order itself that the applicant's family had agricultural income from landed property and there were no social liabilities on the applicant.

5. I find that the impugned order is a cyclostyled one in which agriculture income of the applicant has been filled in and tick mark has been given on the ground that the applicant had no social liability in respect of the family of the deceased. From the impugned order, it does not come out clearly how many posts were being considered for compassionate appointment and how many candidates were being assessed for appointment, nor does it throw any light on the comparative merit of the applicant as against other candidates who were selected. Since there were minor children to look after, it is not correct to say that the applicant had no family responsibility to discharge. In the absence of any such reasoning, it is difficult to sustain the impugned order.



6. The settled law is that the Court/Tribunal cannot give a direction for appointment of a person on compassionate ground, but can merely ask for re-consideration of the claim for such appointment (LIC of India Vs. Asha Ramambekar & Others J.T. 1994 [2] SC 1983). Therefore, it is not possible to give any specific direction regarding appointment of a candidate.

7. In the result, the O.A. succeeds and is allowed. The Impugned order is set-aside and respondent-authorities are directed to reconsider the claim of the applicant on merits in respect of vacancies which have been filled up or are being filled up. The respondent-authority should pass a reasoned and speaking order indicating the comparative merit of the applicant alongwith other candidates while considering his case within a period of four months from the date of receipt of a copy of this order. No costs.


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

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