

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION No: 388/2009

This, the 29th day of October, 2010.

HON'BLE SHRI S. P. SINGH, MEMBER (ADMINISTRATIVE)

Raj Kishor Yadav, aged about 26 years, son of late Sri Ram Bahor, resident of Village-Vishnu Puri colony. Civil Linesn, District-Gonda.

Applicant

(By Advocate: Shri Ravi Srivastava for Shri A. P. Singh)

Versus

1. Union of India, through Chief Post Master General U.P. Circle, Lucknow.
2. Superintendent of Post Offices Gonda Division, Gonda.

Respondents

(By Advocate Shri S. P. Singh)

ORDER

By Hon'ble Shri S. P. Singh, Member (A)

This O.A. has been instituted seeking following relief(s):-

- (a) quashed the impugned order dated 20.4.2007 passed by the opposite party No. 2 contained as Annexure No. 1 and order dated 7.1.2009 passed by Assistant Director Recruitment on behalf of opposite party No. 1 contained as Annexure No. 2 of this original application;
- (b) direct the opposite parties to re-consider the case of the applicant afresh and appoint him on any suitable post under Dying-in-Harness rules, on compassionate grounds;
- (c) pass any other suitable order or direction which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case in favor of the applicant;
- (d) allow the present original application with costs.

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2. The brief facts of the case are that the father of the applicant late Shri Ram Bahor Yadav died in harness on 5.2.2002 while working as Cash Overseer, Gonda, HO after completing 34 years of service. He was survived by his wife Smt Rajapati Devi and five sons namely Sri Nand Kishore, Birj Kishore, Raj Kishore, Ram Kishore and Shyam Kishore. The applicant has filed this O.A. against the order dated 20.4.2007 No. B/Raj Kishore Yadav/ at Gonda by which department considered his case and rejected it after careful consideration.

3. The learned counsel for the applicant submitted that after his application, his case was considered by the Circle Relaxation Committee in its meeting on 16 & 18th January 2007. But his case was not recommended for appointment on compassionate ground. Thereafter, the applicant along with his mother met the opposite parties personally for providing the appointment on compassionate ground after considering the financial hardship of the family.

4. From the respondents side, it was submitted that an amount of Rs. 3,22,417/- was paid to the dependents of the deceased as terminal benefits and family pension of Rs. 2150 + DAR as admissible from time to time per month was sanctioned to the widow. On inspection, it was also found that the deceased had his own house where the family resides. The application of the applicant Shri Raj Kishore Yadav son of late Ram Bahor Yadav, Ex-Cash Overseer, Gonda was considered under the relaxation of normal recruitment rules in the Department of Posts in P.A. cadre by the Circle Relaxation Committee, U.P. Circle, Lucknow in its meeting held on 16th and 18th January, 2007. The case was not recommended for appointment by Circle

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Relaxation Committee due to limited number of vacancies after taking into account inter-se merit of all the cases in terms of assets and liabilities and indigence of the families like total number of dependents, minor children, marriage of daughters, responsibility of aged parent, prolonged illness and major ailments, financial condition and other relevant factors. The applicant was informed accordingly by CPMG UP Circle, Lucknow vide letter dated 16.3.2007 through the office of the Superintendent Post Offices letter dated 20.4.2007.

5. The learned counsel for the respondents further raised an objection that the original application is not within the limitation prescribed under Section 21 of Administrative Tribunal Act-1985. The applicant has also not filed any application for condonation of delay under Section 21(3) showing sufficient cause for not making the application within the prescribed period.

6. I heard the counsel for the parties and perused the material on record, I am of the opinion that proper application under Section 21(3) of the Act for condonation of delay should have been made giving sufficient cause for the delay after the death of the applicant on 5.2.2002. This is also required in accordance with the principles laid down by the Hon'ble Supreme Court in the case of **Ramesh Chand Sharma Vs. Udham Singh Kamal & Ors., 2000 SCC (L&S) 5. The Hon'ble Supreme Court has held:-**

"7. On a perusal of the materials on record and after hearing counsel for the parties, we are of the opinion that the explanation sought to be given before us cannot be entertained as no foundation thereof was laid before the Tribunal. It was open to the first respondent to make proper application under Section 21 (3) of the Act for condonation of delay and having not done so, he cannot be permitted to take up such contention at this late stage. In our opinion, the O.A. filed before the Tribunal after the expiry of three years could not have been admitted and disposed

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of on merits in view of the statutory provision contained in Section 21 (1) of the Administrative Tribunals Act, 1985. The law in this behalf is now settled (see Secretary to Government of India Vs. Shivram Mahadu Gaikwad)."

7. Therefore, this application is time barred application for which condonation of delay has not been sought under Section 21(3). Therefore the case could not be admitted and disposed of on merit in view of the statutory provisions contained in Section 21 of the Administrative Tribunal Act, 1985, wherein there is bar laid down for time barred application for which condonation of delay had not be sought for under Section 21 (3). O.A. is liable to be dismissed on this ground alone.

8. The O.A. is accordingly dismissed as time barred.

No order as to costs.


(S. P. Singh)
Member (A)