

3

1

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 459 of 2012

This, the 28th day of May, 2014

HON'BLE MR. NAVNEET KUMAR MEMBER (J)

Avinash Kumar, son of Late Radhey Shyam (Warrant Officer), resident of Village-Pure Niranjana (Umarhar), Post Office- Barrauli (Khandasa), District-Faizabad, U.P.

Applicant

By Advocate Sri D. Awasthi.

Versus

1. Union of India, through the Chief Post Master General, D. Circle, New Delhi-110001.
2. Senior Superintendent of Post Offices, New Delhi South, West Division, New Delhi-110021.
3. Officer Commanding, P&T, Adm. Cell, Army Postal Service Centre, Pin Code 900746, C/o 56 A.P.O.
4. Major, Command Officer, k16 Khand, Dak Ikai (Postal Unit), 56 A.P.O.

Respondents

By Advocate Sri Amar Nath Singh Baghel.

ORDER (ORAL)

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (a) quash the impugned order/letter dated 21.5.2011 passed/issued by the respondent No. 2 as contained in Annexure No. 1 to this original application.
- (b) direct the respondents to consider the case of the applicant for compassionate appointment.
- (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 favour of the applicant.
- (d) Allow the present original application of the applicant with costs"

2. The brief facts of the case are that the applicant's father Late Shri Radhey Shyam was working with the respondents organization. While he was in service, he expired on 4.2.1994. At the time of the death of the employee, the applicant was minor. As such, on the representations submitted by his mother, the respondents replied vide letter dated 24.4.2000 that when the applicant attains age of majority, he shall apply for grant of compassionate appointment. After attaining the age of majority, the applicant applied for grant of compassionate appointment and the respondents by means of

order, rejected the claim of the applicant without indicating the valid reasons whatsoever.

3. The learned counsel appearing on behalf of the respondents filed their reply and through reply it has been indicated by the respondents that the case of the applicant was duly considered by the respondents and which was received in the office on 22.2.12 and after due consideration, it was decided that the case of the applicant does not come within the purview of required norms. As such, it was rejected and the rejection order was duly communicated to the applicant.

4. The learned counsel for the applicant has filed the rejoinder and through rejoinder, mostly the averments made in the RA are reiterated and has also reiterated that the impugned order does not indicate the reasons as on what basis the applicant's case is not fit for grant of compassionate appointment in terms of the meeting held on 4.5.12. As such, it requires interference by the Tribunal and direction is required to be issued for reconsidering the case of the applicant for grant of compassionate appointment.

5. The learned counsel for the respondents has also filed supplementary counter reply and through supplementary, the contents of RA are denied and the contents of the counter reply are reiterated by the respondents.

6. Heard the learned counsel for the parties and perused the record.

7. The applicant is the son of ex-employee, who was working with the respondents organization and died on 4.2.1994. At the time of death of applicant's father, the applicant was minor, as such, her mother submitted an application for grant of compassionate appointment. In response to the said application, the respondents wrote a letter dated 24th April 2000 indicating therein that the date of birth of the son of the deceased employee is 7th July 1992. Since he was not major at that stage and minimum age required was 18 years required for any government job. It is also advised through the same letter, as and when the applicant attains 18 years of age, an application for compassionate appointment be considered. The applicant in terms of the said communication, submitted a detailed application for grant of compassionate appointment on 18.10.2010 and requested that he being an OBC candidate be considered for grant of compassionate appointment. Along with the O.A., the applicant has also submitted a circular issued by the competent authority. The respondents through letter dated 25.5.2011, rejected the claim of the applicant

and through the same, it is indicted that the case was placed before the CRC committee in its meeting held on 4.5.2010 against 5% direct recruitment quota vacancies for the year 2010 and as per the comparative statement like amount of family pension, terminal benefits, amount of monthly income of earning members and income from property, moveable/immovable property and number of dependents including the number of marriageable daughters, number of minor children, number of left over service. But the respondents failed to indicate as to how many points were given to the applicant and has also failed to indicate that the person who has been considered for grant of compassionate appointment has also secure how much points.

8. As observed by the Hon'ble High Court in the case of **H.S. Srivastava Vs. Special Land Execution reported in 1993 (11) LCD, 441**, that "an order adversely affecting an employee is to be speaking order." It is settled position that an order passed by the authorities is required to be a speaking order and the bare reading of the impugned order dated 21.5.2011, is non speaking order, as such, it requires interference by the Tribunal.

9. Considering the averments made by the parties and also after perusing the record, I am of the view that the impugned order requires interference by the Tribunal. Accordingly, the impugned order dated 21.5.2011 is quashed. The respondents are directed to reconsider the case of the applicant for compassionate appointment and pass a reasoned and speaking order within a period of three months from the date the certified copy of order is produced and the decision so taken be communicated to the applicant.

10. With the above observation, O.A. is allowed. No order as to costs.


(Navneet Kumar)
Member (J)