

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 475/91

~~XXXXX~~

Date of Decision : 6-2-1982

(32)

Mr. Anne Prasada Rao

Petitioner.

Mr. P.V. Ramana

Advocate for the
petitioner (s)

Versus

Director General of Posts & Telegraphs Dept.. Respondent.
New Delhi and 3 others

Mr. N. Bhaskar Rao, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R. Balasubramanian, Member (Admn.)

THE HON'BLE MR. T. Chandrasekhara Reddy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HRBS
M(A)

HTCR
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

(34)

ORIGINAL APPLICATION NO.475/91

DATE OF JUDGEMENT: 6.2.1992

BETWEEN

Shri Anne Prasada Rao

.. Applicant

A N D

1. The Director General of Posts
and Telegraphs Department
Govt. of India, New Delhi
2. The Chief Post Master General,
AP Circle,
HYDERABAD
3. The Post Master General,
Andhra Pradesh Region,
Vijayawada
4. The Senior Superintendent of Posts
Guntur Division
Guntur

.. Respondents

COUNSEL FOR THE APPLICANT : SRI P.V. RAMANA

COUNSEL FOR THE RESPONDENTS: SRI N. BHASKARA RAO, ~~Adl Case~~

CORAM:

HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDICIAL)

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY
THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This application is filed under Section 19 of the Central Administrative Tribunals Act, 1985, to declare the action of the respondents in rejecting appointment of the applicant on compassionate grounds in relaxation of the normal recruitment rules for the post of Postal Assistant as per the proceedings of the 4th Respondent herein dated 30.11.1990 is arbitrary, illegal and as a consequence to direct the respondents to appoint the applicant in a suitable post in the Postal Department taking into account his educational qualifications and pass such other orders as may deem fit and proper in the circumstances of the case.

The facts that are not in dispute in this OA in brief are as follows:

1. The father of the applicant is one Sri A. Seetharamiah. In the year 1988, the said Sri A. Seetharamiah was working as Sub-Post Master in the Weavers~~o~~ Colony, Mangalagiri SO., Guntur Division. The father of the applicant Sri A. Seetharamiah expired on 31.1.1988 while in service. The mother of the applicant Smt A. Basava Nagendramma alias Chittemma submitted a representation on 18.2.1988 requesting the respondents to give appointment to the applicant on compassionate grounds in the department of the respondents in relaxation of normal recruitment rules. The said representation of the said Smt A. Basava Nagendramma regarding the appointment~~s~~ of

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the applicant on compassionate grounds in relaxation of normal recruitment rules was recommended by the 4th respondent vide his letter dated 24.3.1988 and the representation was forwarded by the 4th respondent to the 2nd respondent herein for consideration. The applicant had studied upto B.Com on the date of submission of the said representation by the said Smt A. Basava Nagendramma, mother of the applicant on 18.2.1988. The 2nd Respondent advised the 4th respondent vide his letter dated 11.4.1988 to intimate the applicant that there was no vacancy in Postal Assistant Cadre to consider the case of the applicant and that the case would be reviewed as and when vacancies arose. The 4th respondent informed the same to the applicant vide his letter dated 19.4.1988. While so, the applicant submitted another representation dated 2.6.1988, requesting the respondents to take him as Short-duty Postal Assistant on compassionate grounds till a vacancy arose, in the Postal Assistant cadre for considering his request for appointment as Postal Assistant on regular basis. After considering the request of the applicant, the 2nd respondent asked the willingness or otherwise of the applicant to work as Postman, vide his letter dated 16.6.1988, to the 4th respondent. The applicant was accordingly addressed by the 4th Respondent on 21.6.1988 for the willingness of the applicant to work as postman. But the applicant, as per his letter dated 2.7.1988 expressed his unwillingness to work as Postman and requested the respondents to appoint him in an appropriate post in consideration of his educational qualifications. Thereafter, the 2nd Respondent informed the applicant as per the letter dated 4.10.1988, that in accordance with the 1st Respondent's ~~.....~~ instructions, contained in letter No.60/37/84-SBI dated 17.3.1984, compassionate appointment can be approved only where there

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are vacancies available and the request of the applicant could not be considered as there was no vacancy of Postal Assistant cadre in the said Guntur Division. The applicant was again informed by the 4th respondent on 19.1.1989 that the applicant has to wait till his turn comes for consideration for appointment since there was no vacancy to consider his case, for appointment as Postal Assistant. The applicant also seems to have been informed by the 4th respondent vide his letter dated 9.2.1989, that there was no vacancy in Postal Assistant cadre in Guntur Division to consider his case and that the applicant had to wait till his turn comes for consideration.

2. A Circle Selection Committee was constituted by the Department for reviewing the cases for appointment in relaxation of normal recruitment rules on compassionate grounds. The said Committee comprising of Senior Officers of the Department carefully considered the case of the applicant for appointment on compassionate grounds and rejected the same on 23.3.1990. The decision was communicated by the 2nd respondent to the 4th respondent on 23.9.1990 who in turn intimated the same to the applicant vide his letter dated 28.3.1990. The case was also re-examined by the 2nd Respondent on 23.4.1990 and 4.6.1990 and found no reasons to revoke the decision of the Circle Selection Committee as there are no indigent circumstances. The 1st Respondent also rejected the case vide his letter dated 9.11.1990 and the same was informed by the 2nd respondent to 4th respondent who in turn informed the same on 30.11.90 to the applicant that his request for appointment on compassionate grounds was carefully considered and rejected. So the present application is filed by the applicant for the reliefs already indicated.

T - S. *[Signature]*

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Counter is filed by the respondents opposing the application. It is contended in the counter that the applicant is entitled for either Group 'C' or 'D' post and the applicant was also offered the Post of Postman which falls under Group 'C' category and hence, there is no question of having rejected the request of the applicant for appointment on compassionate grounds. It is further maintained that as the attempt of the applicant is to get appointed as Postal Assistant which is a Group 'C' post, that the Selection Committee did not consider it suitable to offer appointment to the applicant to the said post and as such the applicant has no grievance to complain as against the action of the respondents that he was not offered an appointment on compassionate grounds due to the death of his father while in service. The object of the appointment to the dependents of the deceased Government employees is for immediate assistance in case where the family of the deceased is under indigent circumstances, so that, the family of the deceased can pull on in view of the demise of the deceased. As could be seen in the instant case, the representation on behalf of the applicant to the respondent is to provide him a suitable post preferably that of the postal assistant in view of his educational qualifications. But, as already pointed out, the applicant was offered a post of Postman by the respondents, but the applicant did not accept the offer.

3. The basic salary which the post of Postman carries is Rs.825/- excluding all other allowances as per rules. The basic salary which the post of Postal Assistant carries is Rs.975/- excluding all other allowances as per rules. Hence, the action of the respondents in offering to the applicant the post of Postman on compassionate grounds appears to be quite reasonable.

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In their discretion, the respondents thought that the applicant is suitable to be appointed as 'Postman' only.

4. As already pointed out, the applicant had requested the respondents to give him appointment as Postal Assistant. The Circle Selection Committee, though considered the case of the applicant, thought it fit not to offer him appointment as Postal Assistant. The decision taken by the Selection Committee has been approved even at highest level. No malafides are attributed in the decision of the Selection Committee in not offering the applicant the post of Postal Assistant. It is purely the discretion of the respondents to offer a post on compassionate grounds which they consider it suitable to the dependent of the deceased. Unless the said discretion that is exercised () by the respondents is arbitrary or with malafides, it is not open for this Tribunal to interfere with the decision taken by the respondents. As a matter of fact, this OA was heard as early as 8.1.1992. We gave sufficient time to the counsel for the applicant to ascertain whether in any similar case, in recent times, whether a post of Group'C' had been offered by the respondents in the P&T Department. Though the counsel for the applicant took time, he is not able to place any material before us to show that on compassionate grounds in similar cases in recent times, Group'C' post had been ~~given~~ offered, to the dependents of the deceased. Under these circumstances, it is not open to the applicant to contend that there is any discrimination on the part of the respondents in offering to the applicant the job of Postman and not taking him as postal assistant. It cannot be said that the action of the respondents in not taking the applicant as Postal Assistant is arbitrary.

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5. It is contended in the application that the 3rd respondent had recommended to 2nd respondent to take the applicant to the post of Postal Assistant, and in view of the said recommendation, this application is liable to be allowed. But, as already pointed out, the Circle Selection Committee as a whole, has taken a decision as not to offer the applicant the post of Postal Assistant on compassionate grounds. So that being the position, we are unable to understand how the recommendations of the 2nd respondent would out weigh the said decision of the Circle Selection Committee.

6. For the reasons mentioned above, the application of the applicant is liable to be dismissed. The learned Counsel for the applicant relied on the decisions reported in (1) Current Service Journal - Sri Surinder (Applicant) (Respondents) Singh Vs Union of India and others at Page 140 (2) All India Services Law Journal - Smt Ratni Devi (Applicant) Vs the Secretary, Haryana State Electricity Board, Chandigarh (Respondents) at Page 186 (3) Smt Jhansi (Applicant) Vs General Manager, Indian Drugs and Pharmaceuticals Ltd, Balanagar, Hyderabad - All India Services Law Journal Page 25 (4) Services Law Reporter - Page 339 - The Punjabi University, Patiala (Appellants) Vs Smt Sarla Mittal (Respondent).

7. We have gone through all the above decisions carefully. Those cases relate to the appointment on compassionate grounds which were not considered by the competent authority. But with regard to the case in hand, the applicant was offered a job on compassionate grounds but the same had not been accepted by the applicant for the reasons best known to him. So as already pointed out, the said decisions absolutely have no application with regard to the case on hand.

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8. The learned counsel appearing for the applicant ~~respondents~~ very vehemently contended that the order of rejection of the applicant in not taking the applicant as Postal Assistant is not a speaking one and as such the application is liable to be allowed. Even though the order of rejection is not speaking one, after going through the material placed before us, we are satisfied that the order of rejection of the respondents to offer the applicant the post of Postal Assistant is valid.

9. Absolutely, we see no grounds to interfere with the order of the respondents in refusing to appoint the applicant as Postal Assistant. Hence, we see no merits in this application and this application is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, we direct the parties to bear their own costs.

R.Balasubramanian
(R.BALASUBRAMANIAN)
Member (A)

T.C. Reddy
(T.CHANDRASEKHARA REDDY)
Member (J)

Dated: 6-2-Jan., 1992

Deputy Registrar 2/292

To

1. The Director General of Posts and Telegraphs
Department Govt. of India, New Delhi.
2. The Chief Post Master General, A.P.Circle, Hyderabad.
3. The Post Master General, Andhra Pradesh Region, Vijayawada.
4. The Senior Superintendent of Posts, Guntur Division, Guntur.
5. One copy to Mr.P.v.Ramana, Advocate
6-3-600/A/5, Errummanzil, Hyderabad.
6. One copy to Mr.N.Bhaskara Rao, Addl.CGSC.CAT.Hyd.
7. One spare copy.

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TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. *V.C.*
THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)
AND
THE HON'BLE MR. T. CHANDRASEKHAR REDDY :
M(JUDL)
AND
THE HON'BLE MR. C. J. ROY : MEMBER(JUDL)

DATED: *6-9-1992*

~~ORDER~~ JUDGMENT:

~~I.A./C.A./M.A.N.~~

in

O.A.N. *475/91*

T.O. No. *.....* (W.P. No. *.....*)

Admitted and interim directions issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.

PPM.

