

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 29.3.2004

RA 11/2004 (OA 116/2003)

1. Smt. Kusum Sharma w/o late Shri Jagdish Prasad Sharma r/o 2-236, Housing Board Colony, Dholpur, Rajasthan.
2. Pankaj Sharma s/o late Shri Jagdish Prasad Sharma r/o 2-236, Housing Board Colony, Dholpur, Rajasthan.

... Applicants

Versus

1. Union of India through Secretary, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Near Govt. Press, Jaipur.
3. Superintendent Post Offices, Dholpur Division, Dholpur.

... Respondents

CORAM:

HON'BLE MR. A.K. BHANDARI, ADMINISTRATIVE MEMBER

ORDER

PER HON'BLE MR. A.K. BHANDARI

This Review Application has been filed with a prayer to recall and review the order dated 17.2.2004, passed by this Bench in OA 116/2003 (Smt. Kusum Sharma & Anr. v. Union of India & Ors.), by which the said OA was dismissed.

2. In the OA prayer was made to quash and set aside the impugned order dated 10.2.2003 by which request for compassionate appointment to applicant No.2, made by application dated 9.10.2001, had been rejected. While placing on record the above judgement dated 17.2.2004 (Ann.A/1) averment has been made that a circular (dated 5.5.2003) has been issued by the Department of Personnel & Training, extending the time limit for compassionate appointment, but this fact was not brought to the notice of the Tribunal during arguments by the learned counsel for the respondents. That Hon'ble Tribunal may please review the judgement in the light of said circular.

3. In para-3 of the RA, aforesaid circular dated 5.5.2003 has been reproduced under which it has been decided that while abiding by the earlier guidelines contained in various memos quoted therein, the cases for compassionate appointment to genuine and deserving cases may be reviewed by the prescribed committee in subsequent year subject to availability of a clear vacancy within the prescribed 5% quota. If on

scrutiny by the committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year and the maximum number of time the name of a person can be kept under consideration will be three years, subject to condition that the prescribed committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year.

4. In the grounds it is stated that learned counsel for respondents during the course of arguments did not apprise the Tribunal regarding said circular. The applicant was also not having any knowledge about the same and that duty was cast upon respondents' counsel to bring on record the said circular issued in relation to compassionate appointment. Also that the applicant is unemployed and the family is living in penurious condition.

5. Powers of this Tribunal in the matter of review of its order are akin to powers of the Civil Court and are governed by Order-47 Rule-1 of the Code of Civil Procedure. This rule provide that review can be done if there is an error apparent on the face of record or if there is such material fact or the point of law which could not be brought to the notice of the Tribunal/Court despite due diligence.

6. While considering the RA it is found that ^{there is} no error is apparent on the face of record and the RA is devoid of merit on the basic consideration that the circular of the Department of Personnel & Training for the consideration of which this RA has been submitted was issued on 5.5.2003, whereas the impugned order in the OA by which the request of the applicant for compassionate appointment was rejected, was issued on 13.2.2002 i.e. the decision was taken more than a year before the issue of said circular. In no way, the relaxation granted by the circular dated 5.5.2003 can be granted retrospectively. On this ground alone, the RA is devoid of merit and is dismissed, by circulation.


(A.K.BHANDARI)
MEMBER (A)