

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

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Date of Decision: 11.7.2000

OA 522/97

Mahendra Kumar Sharma s/o Late Shri Dhanna Ram Sharma Ex.EDMC, Bhooma Bars Branch Post Office in Sikar Postal Division r/o Village and Post Office Bhooma Bars via Jajod Tehsil Lachhmangach Distt.Sikar.

... Applicant

Versus

1. Union of India through Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Postmaster General, Rajasthan Western Region, Jodhpur.
3. Supdt. of Post Offices, Sikar Division, Sikar.
4. Inspector of Post Offices, Fatehpur Sub Division, Fatehpur Shekhawati.
5. Shri Heeralal Jat s/o Natharam, EDMC Village & P.O. Bhoomabara via Jajod, Teh. Laxmangach, Distt.Sikar.

... Respondents

CORAM:

HON'BLE MR.S.F.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.S.BAFU, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.K.L.Thewani

For the Respondents

... Mr.Hamant Gupta, proxy counsel for
Mr.M.Rafiq

O R D E R

PER HON'BLE MR.S.F.AGARWAL, JUDICIAL MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant makes prayer; i) to quash and set aside the impugned orders dated 1.1.96 and 6.1.97 (Annexures A/1 and A/2) being illegal, unconstitutional, capricious and violative of Articles 14 and 16 of the Constitution, ii) to direct the respondents to appoint the applicant on regular basis on compassionate grounds in view of the order of the Government and the Scheme for compassionate appointments of EDAs.

2. In brief the facts of the case, as stated by the applicant, are that the applicant is son of Late Shri Dhanna Ram, EDMC, Bhoomabara, who was discharged from service w.e.f. 5.6.95 on medical grounds after put in service of about 35 years. It is stated that Late Shri Dhanna Ram died on 13.9.96 and the applicant was appointed by oral orders vice his father and he joined as EDMC, Bhoomabara, on 12.10.95. It is stated that services of the father of the applicant were discharged on medical grounds on 5.6.95 and he was granted an ex-gratia gratuity of Rs.6000/-. It is also stated that

from the Scheme for appointment on compassionate grounds the respondents should have given appointment to the applicant on the post of EDMC, Bhoomabara, but the respondents did not consider the application of the applicant sent for this purpose. It is also stated that the respondent department has selected one Shri Heeralal vide order dated 1.1.96, who is from another village Mangloona, which is 18 kms. away from the main Post Office Bhoomabara and Shri Heeralal has joined the post on 5.1.96. It is stated that the applicant is having all the requisite qualifications for the post and he is also entitled to weightage for experience, which he has gained while working on the post of EDMC. Therefore, the respondents have no reason to reject the application of the applicant for appointment on compassionate grounds and for regular appointment on the post of EDMC, Bhoomabara. Therefore, the applicant filed this OA for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that the applicant was engaged on temporary basis as a stop-gap arrangement till finalisation of the recruitment process and worked for the period from 13.10.95 to 5.1.96. It is also stated that services of the father of the applicant were terminated on medical grounds and he was granted an ex-gratia gratuity of Rs.6000/- as per provisions of Rule-4(7) of the E.D. Conduct Rules, 1964. It is further stated that the Scheme for compassionate appointment is available only to the dependants/near relatives of the deceased E.D. Agents as per Director General (Posts), New Delhi, letter No.14-25/91 ED & Trg. dated 29.5.92 and 5.8.93. According to the Scheme, the dependants/near relatives of the persons retiring on medical grounds are not at all entitled to give the benefit of the Scheme of compassionate appointment. It is also denied that name of the applicant was not considered alongwith others for selection on the post of EDMC, Bhoomabara. It is stated that the applicant also applied alongwith others and his candidature was considered but Shri Heeralal s/o Shri Natharam Jai was found most suitable, therefore, he was selected and appointed on the post vide order dated 6.12.93, who has joined on 5.1.96. Therefore, services of the applicant were terminated as his appointment was made as a stop-gap arrangement on the post of EDMC, Bhoomabara. Therefore, the applicant has no case for interference by this Tribunal and this OA is devoid of any merit and is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant laid more emphasis on the ground that according to the Scheme the applicant was entitled to be considered for

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(3)

appointment on the post of EDMC, Bhoomabara, but the respondent department did not appreciate the scheme meant for this purpose and refused to consider the applicant for appointment on compassionate grounds. On the other hand, the learned counsel for the respondents argued that the Scheme so referred is not applicable in case of the applicant as father of the applicant was discharged from the service on medical grounds and thereafter he died. The letter, at Annexure A/2, issued by the respondent department, makes it very clear that the applicant was not entitled to the appointment on compassionate grounds because applicant's father was discharged from service on medical grounds and during the life-time of his father, the post of EDMC, Bhoomabara, was filled up and thereafter applicant's father died. Therefore, the applicant was not entitled for appointment on compassionate grounds.

6. We have perused the Scheme, as annexed by the applicant with this OA, and we are of the considered view that according to the scheme the applicant was not entitled to the appointment on compassionate grounds and he was rightly refused for the same. In our considered view, there is no arbitrariness/illegality/infirmity in refusing appointment to the applicant on compassionate grounds according to the Scheme provided for this purpose. Moreover, it is also pertinent to mention here that mainly the applicant has challenged the selection of Shri Heeralal on the post of EDMC, Bhoomabara. Therefore, in this OA he is not entitled to claim the relief of appointment on compassionate grounds because the applicant is not allowed to claim multiple reliefs as per the provisions contained in the Administrative Tribunals Act. Therefore, we are of the considered view that the applicant is not entitled to be considered for appointment on compassionate grounds looking to the facts and circumstances of the present case.

7. The learned counsel for the applicant has challenged the selection of Shri Heeralal on the post of EDMC, Bhoomabara. It is an admitted fact that the applicant was appointed as EDMC, Bhoomabara, as a stop-gap arrangement only till the regular selection on the post is made. A notification filling up the post was issued and the applicant also participated in the process of selection but having not found fit the applicant was not selected and Shri Heeralal, who was found most suitable, was selected and he has joined in pursuance of the selection on 5.1.96. The learned counsel for the applicant has also argued that the applicant was a better candidate than Shri Heeralal, therefore, he should have been appointed on the post of EDMC, Bhoomabara. He has also submitted that Shri Heeralal was not the local resident of the delivery jurisdiction of the post. Therefore, selection of Shri Heeralal on the post was arbitrary and illegal and, therefore, he has

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requested to quash the same.

8. The method of recruitment of EDEPM/ELSEPM/ELMC is prescribed in Section-III 'Method of Recruitment'. According to these rules what is required is that a person concerned should have adequate means of livelihood and he should be able to offer space for the postal operations. There is further requirement that premises should be such as will serve a small postal office with a provision to install even a PCO. Why department attached importance to this provision, the logic and rational behind the same is that the post of a Branch Post Master is a responsible appointment which requires the appointee to handle public monies as a routine duty in course of his day to day functioning. Further more he has also the custodian of government property. Therefore, looking to the accountability of the persons concerned it is required that the applicant must have means of independent livelihood. It is not at all required that the applicant must be a resident of delivery jurisdiction. Therefore, the objection raised by the learned counsel for the applicant that applicant does not belong to the delivery jurisdiction has no force and on this count the case of the applicant does not come in merit. On the basis of the foregoing, we are of the considered opinion that selection of Shri Heeralal, made by the respondents, does not suffer from any infirmity and there is no basis to interfere in the order passed by the respondents for appointment of Shri Heeralal on the post of ELMC, Bhocmahara. Therefore, this CA is devoid of any merit and is liable to be dismissed.

9. We, therefore, dismiss this CA having no merit, with no order as to costs.

(S.BAPU)

MEMBER (A)

(S.K.AGARWAL)

MEMBER (J)