

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 22/8/2000

CA 99/99

Yusuf Ali s/o Late Shri Akbar Ali r/o Village & Post Sarola
via Simliya, Tehsil Digod, Distt. Kota.

... Applicant

v/s

1. Union of India through Secretary, Deptt. of Posts,
Ministry of Communications, New Delhi.
2. Post Master General Rajasthan Southern Region, Ajmer.
3. Sr. Supdt. of Post Offices, Kota Postal Division, Kota.
4. Asstt. Supdt. of Post Offices, Kota West Sub Division,
Kota.

... Respondents

CCRAM:

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

HON'BLE MR. N. P. NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. C. B. Sharma

For the Respondents

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

O R D E R

PER BN HON'BLE MR. S. H. AGARWAL, JUDL. MEMBER

In this OA filed u/s 19 of the Administrative Tribunal
Act, the applicant makes a prayer to quash and set aside the
letters dated 17.2.99 and 22.2.99 and to direct the respondents
to allow the applicant on the post of EDMC Sarola in view of
letter dated 5.11.98 and to issue the order of appointment in
favour of the applicant.

2. In brief, case of the applicant is that, ^{his} father of the
was holding the post of EDMC Sarola for the last 30 years and

10

- 2 -

he was expired on 4.11.96 while on duty. The applicant and his mother requested to the respondents for providing appointment on compassionate grounds. It is stated that respondent No.2 ordered appointment of the applicant vide order dated 2.5.98. On the basis of that order, respondent No.3 directed to respondent No.4 to appoint the applicant vide letter dated 5.11.98. It is stated that the applicant was working efficiently since joining the post but suddenly he was relieved on 23.2.99 intimating that it was not possible to appoint the applicant on compassionate grounds and it is stated that now respondent No.4 is going to select any other person depriving the applicant from his legitimate right. It is further stated that due to the death of his father the applicant was ~~have~~ had a right to be appointed on compassionate grounds as there is no family member in gainful employment to maintain the indigent family after the death of his father. It is stated that ~~again~~ action of the respondents is arbitrary, illegal and against the provisions of Articles 14 and 16 of the Constitution and the respondents did not disclose any reason denying the appointment to the applicant which was earlier approved. Therefore, the applicant filed this OA for the relief as above.

3. Reply was filed. It is stated in the reply that the applicant applied for ~~the~~ appointment on the post of EDMC Sarola after the death of his father on compassionate grounds.

11

- 3 -

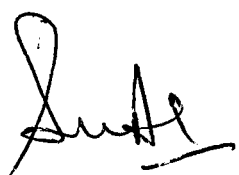
On 1.1.97 it was forwarded to the PMG Ajmer. On 2.5.98, Smt. Milonee Dutt, PMG Ajmer, came to Kota on tour, where Smt. Vanija w/o Late Shri Akbar Ali met her and submitted an application for employment of the applicant on the post of EDMC Sarola on compassionate grounds and respondent No.2 passed the following order on the application :-

"The widow of the late official met me in the I.Q. She explained her indigent circumstances and submitted this representation.

As per Dept's rules, the circumstances of the family is to be fully inquired into. If found to be as given by the widow, provisional engagement of the son as ED may be considered, provided they have at least a house, and conditions put that he reach class VIII educational qualification within 2 years, to be considered for confirmed employment in ED and this have the usual door opened for Deptt. absorption open to all ED staff of the Deptt."

It is stated that respondent No.3 forwarded the order of respondent No.2, made on the application, to respondent No.4.

It is also stated that marks-sheet of Class-VIII tendered by the applicant on verification was found incorrect as in the year 1986-87 the applicant appeared in Class-VIII but failed in English, Science and Maths, whereas the marks-sheet submitted by the applicant was showing the applicant as passed in all the subjects, which was manipulated. But later on the applicant tendered an application dated 29.6.98 alongwith a marks-sheet showing himself passed in Class-VIII in the year 1997-98, which was found to be genuine. The applicant thereafter was provisionally engaged as EDMC Sarola on



13.11.98 till the approval was refused by the CPMS, Jaipur. It is stated that the Circle Relaxation Committee (CRC, for short) could relax the prescribed conditions for appointment of the applicant on compassionate grounds but the CRC did not recommend the appointment of the applicant. Therefore, the applicant was rightly disengaged on 23.2.99 and act of the respondents was not arbitrary, unjust and illegal in any way and principle of promissary ~~estoppel~~ estoppel is not applicable in the instant case. It is also stated that it is open for the applicant now again to apply for appointment under the relevant rules alongwith the marks-sheet of Class-VIII passed to the CPMS, Jaipur, to reconsider his case by the CRC and the CRC is the only competent authority to recommend the case of the applicant for appointment on compassionate grounds. In view of the reply filed in this CA, it is stated that the applicant is not entitled to any relief sought for.

4. On 1.3.99, following interim order was issued by this Tribunal :-

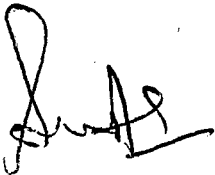
"Meanwhile, the respondents are directed that no incumbent be appointed on regular basis on the post which was held by the applicant, if already not appointed, before today i.e. 1.3.1999."

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

[Handwritten signature]

6. It is an admitted fact that father of the applicant Shri Akbar Ali expired on 4.12.96 while on duty and at the time of death the deceased Shri Akbar Ali was holding the post of EDMC Sarola for the last 30 years. It is also an admitted fact that the applicant is son of the deceased EDMC. It is also not disputed that ~~my father~~ after the death of his father, there was nobody in gainful employment to look after the family of the deceased EDMC. It is also not disputed that the applicant was only engaged provisionally by the order of respondent No.2 on compassionate grounds in place of his father on the post of EDMC Sarola but it appears that the CRC did not approve the case of the applicant because at that time the applicant did not prove to have passed Class-VIII. It is made clear by the applicant that now he has passed Class-VIII in the year 1997-98 and on verification the marks-sheet filed by the applicant was found genuine. In the reply the respondents have admitted the fact that it is open to the applicant now to again apply for appointment under relaxation of recruitment rules alongwith the marks-sheet of Class-VIII passed to the CPMS, Rajasthan, Jaipur, to reconsider his case by the CRC.

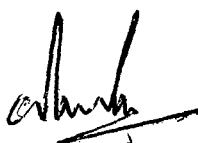
7. In view of above all, we allow this OA with the direction to the applicant to submit an application for appointment on compassionate grounds to the Chief Post Master General, Rajasthan, Jaipur, within a month from the date of

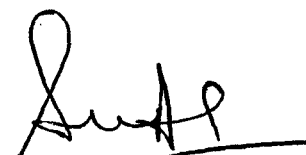


14

- 6 -

passing of this order alongwith the marks-sheet of Class-VIII passed. On receiving the application of the applicant, the respondents shall place the case of the applicant before the Circle Relaxation Committee, who shall review the case of the applicant for consideration of appointment on compassionate grounds looking to the indigent circumstances of the applicant within two months and if the case of the applicant found fit for appointment on compassionate grounds, the order of appointment may be issued in favour of the applicant forthwith. No order as to costs.


(N.P.N. WANI)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)