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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 1-5-2000

OA No.22/99

Sunil Kumar Pachherwal S/o late Shri Gauri Shankar Pachherwal, aged 23 years R/o House No.29, Chawaria Marg, Purani Basti, Jaipur.

.. Applicant

Versus

1. Union of India through the Comptroller and Auditor General, Ministry of Finance, New Delhi.
2. The Accountant General, Rajasthan, Jaipur.
3. The Senior Dy. Accountant General (Adm.), A.G.Office, Jaipur.

.. Respondents

Mr. B.J.Sharma, proxy counsel to Mr.M.B.Sharma, counsel for the applicant

Mr.Sanjay Pareek, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

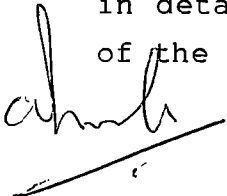
The applicant in this Original Application, who belongs to the Scheduled Caste community, seeks appointment on any Group-D post on compassionate grounds as a dependent of his deceased father Late Shri Gauri Shankar who was a Safai Karamchari.

2. It appears from the averments that the wife of the deceased employee had filed an application on 22.2.1994 for appointment of any of the family members on compassionate grounds. Thereafter on 26.10.94, she filed an application alongwith documents that such appointment may be provided to the applicant in this OA. The applicant was called for an interview but was told after the interview that at present no post was lying vacant and he will be informed later on when post becomes available. Thus the documents submitted must

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have been found satisfactory before the applicant was called for interview. However, the respondents vide their letter dated 2.11.1995 asked the applicant to submit correct particulars of the family members. The applicant then supplied the details on 20.12.1995, inter alia, explaining the reasons for difference. The applicant being aggrieved that while he waited, other appointments were given on compassionate grounds, filed OA No.57/1997, in reply to which respondents stated that since there was discrepancy in the date of birth of the applicant and he was minor as per particulars furnished by his late father, he could not be given the appointment. His father had given the applicant's date of birth as 11.9.1981 whereas the applicant in his application dated 29.2.1994 (Ann.A1) had mentioned it as 1.7.1975. The said OA was decided on 7.4.1998 with a direction to the respondents "to consider applicant's case for appointment on compassionate grounds as a Safai Karamchari or to any other Gorup-D post after verifying the relevant date and facts as per rules, instructions and guidelines on the subject..." However, the respondent No.3 vide his order dated 25.9.1998 (Ann.A4) considered his case but rejected it essentially on the ground that the applicant had wilfully furnished wrong details about his date of birth and details of family members to take undue advantage of the scheme and present himself as a major even though he was a minor even on the date and, therefore, ineligible for appointment.

3. The applicant's case is that the conclusions arrived at by the respondent No.3 are not correct as the marksheet for Secondary Board of Rajasthan (Ann.A5) will show that his date of birth was actually 1.7.1975 and the same date was given by him in his application (Ann.A1). That the birth certificate issued by the Municipal Corporation of Jaipur shows the applicant's date of birth as 1.7.1975 further support the contention of the applicant. The applicant has also explained in detail the discrepancy regarding the members of the family of the deceased in his rejoinder.

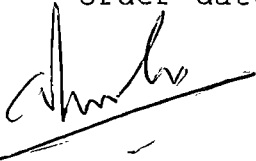


4. The respondents have opposed the OA basically on the ground that the date of birth of the applicant was 11.9.1981 as per the service records of the deceased employee and the applicant was, therefore, a minor and ineligible for the job. Some discrepancies about the details of the members of the family of deceased have also been pointed out.

5. We have heard the learned counsel for the parties and have perused the material available on record.

6. The discrepancies regarding members of the family were already before this Tribunal when it passed the order dated 7.4.1998, including the fact that the eldest son was employed in the Nagar Nigam and was not supporting the family of the deceased since a long time. In view of this, we are not going into this discrepancy once again and feel that it has to be appreciated by the respondents that this family belongs to the lowest rung of the society and more than such technical objections what is more important is the level in "indigent conditions" the family would be facing after the death in harness of the bread-earner. We would, therefore, urge the respondent No.3 to take a sympathetic view and ignore the inconsistencies, if any, in the matter of details of the "remainder" family of the deceased, after the eldest son had stopped supporting the family on getting an employment.

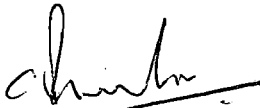
7. The more material question relates to the correct date of birth of the applicant. No doubt, the deceased employee had indicated the date of birth of the applicant ^{with us} 11.9.1981 and the same figured in the service records of the deceased. However, the marksheet issued by the Rajasthan Secondary Education Board (Ann.A5) showing the date of birth of the applicant as 1.7.1975 and, more importantly the birth certificate issued by the Municipal Corporation, Jaipur (Ann.A6) showing the date of birth as 1.7.1975 were not before the Sr. Deputy Accountant General (Admn.) when he considered the case of the applicant in pursuance of the order dated 7.4.1998 from this Tribunal. These, especially the



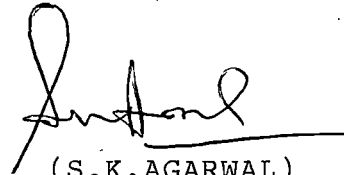
latter, are important documents and do indicate that the deceased employee when he gave the details of his family way back at the time of his joining the service with the respondents may have erred in giving the date of birth of the applicant. The case, therefore, deserves to be reconsidered sympathetically considering that the family belongs to the backward Scheduled Caste community and being a large family may be in really indigent condition on the death of the Head of the family who, in any case, was only a Group-D employee.

8. We, therefore, dispose of this OA with a direction to the respondent No.2 to reconsider the case of the applicant for compassionate appointment in any Group-D post in the light of discussions recorded in this OA. The reconsideration may be carried out as expeditiously as possible and a reply be sent to the applicant. Let a copy of the OA alongwith its Annexures be enclosed with a copy of this order to be sent to respondent No.2.

No order as to costs.


(N.P.NAWANI)

Adm. Member


(S.K.AGARWAL)

Judl. Member