

CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH.

O.A.NO.492/2003

January 28, 2005.

Lalit Mohan son of Shri Ram Swaroop, Aged about 20 years, Resident of Bhusavar Gate, Weir District Bharatpur (Rajasthan).

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Applicant

By : Mr.Hemant Gupta, Advocate.

Versus

1. Union of India through the Secretary, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. The Chief Post master General, Rajasthan Circle, Jaipur.
3. The Superintendent of Post Offics, Dholpur Division, Dholpur (Rajasthan).
4. Assistant Superintendenmt of Post Offices, Bayana Sub Division, Bayana (Rajasthan).

By : Ms.Madhukar Sharma, Advocate for
Mr. N.C.Goyal, Advocate.

5. Smt. Laxmi Devi wife of late Shri jai Shiv Ram, EDMC, Muhari District Dholpur.

By : None.

ORDER (ORAL)

KULDIP SINGH, VC

The applicant is before this Tribunal pleading that he is B.A. Pass. His father, Shri Ram Swaroop Sharma, working as EDMC, Muhari, Tehsil Weir District Bharatpur, was retired from service on medical ground. The applicant submitted an application for appointment on compassionate grounds on 22.3.1997 (Annexure A-3). He was



appointed as EDMC Muhari on provisional basis on 29.7.1997, w.e.f. 9.5.1997. However, his services were terminated by order dated 1.8.1998 and charge of the post was also taken from him and the additional charge was given to Branch Postmastr, Muhari. The applicant submitted a representation on acceptance of which he was appointed by order dated 30.9.1998 on provisional basis till regular appointment to the post.

2. Respondent No.4 by notification dated 16.3.1999, invited applications for the post of EDMC, Muhari for filling up on regular basis.

The applicant applied for the post in question on 26.3.1999. The services of the applicant as EDMC, Muhari, were teminated and the charge of the post was taken on 13.2.2001, giving additional charge to the Branch Post Master, Muhari. The applicant filed a representation against his relieving on 30.5.2001 (Annexure A-4). However, the request of the applicant was rejected by the respondents on 22.3.1997 (Annexure A-1) on the ground that there is no provision in the rules for appointment of applicant on compassionate grounds. Ultimately, vide order dated 8.3.2000 (Annexure A-2), respondent No.5 has been appointed as EDMC, Muhari, on compassionate grounds.

3. The applicant pleads that the rejection of his representation is illegal as on one hand his request for appointment on compassionate ground has been rejected whereas respondent no.5 has been granted such appointment. Placing reliance on Circular dated 4.8.1980 issued by the Director General of Post & Telegraphs, he claims that under these instructions, dependent of an ED official who retire on invalid

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pension, is entitled to appointment on compassionate grounds. He has prayed to declare the appointment of respondent no.5 on the post of EDMC, Muhari as illegal and for direction to the respondents to give him appointment as EDMC, Muhari on compassionate ground or at any other place than Mohari if the posting of the applicant is not possible at Muhari.

4. The Original Application has been contested by the respondents by filing a detailed reply. They submit that case of the applicant was considered by the Circle Relaxation Committee in relaxation of the rules but his case could not be approved and was rejected. However, under the instructions it is mentioned that it would not be desirable to

- 1 extend the scope of compassionate appointment to cover the dependants / near relatives of the invalidated EDAs. Copy of such instructions are enclosed as Annexure R-6, dated 29.5.1992. The decision of the Circle Relaxation Committee was conveyed to the applicant by letter dated 30.7.1998 (Annexure A-1). The appointment of the applicant on the post of EDMC Muhari (Weir) from time to time was only as an adhoc / temporary arrangement till appointment of
- 2 regular incumbent on the post. The appointment to the said post has materialised after due process of selection and the respondent no.5 stands selected for the post in question vide Memo dated 8.3.2000 (Annexure A-2) and she took over the charge of the post on 13.2.2001 (Annexure R-10). The services of the applicant were dispensed with in terms of his appointment which cannot be challenged nor the same has been challenged. The private respondent has been

appointed in relaxation of rules on account of death of her husband.

The applicant was directed to be informed on 28.7.1998 (Annexure R-11) that there is no provision in the rules for appointment of dependents of invalidated pensioners on compassionate grounds. The applicant has not filed any rejoinder.

5. Learned counsel appearing for the parties have been heard at length and record has been examined.

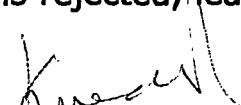
6. Even though the applicant has mentioned facts about his engagement and disengage from the post of EDMC Muhari, but nothing has been claimed in regard to such appointment and as such the Court is not required to record any finding on that aspect.

7. However, in so far as claim of the applicant for appointment on compassionate grounds is concerned, it has been vehemently argued on behalf of the applicant that his case is covered under the instructions dated 4.8.1980, as reproduced by the applicant in para 5 © of the Original Application, which inter-alia provide that dependent of an ED Agent who retires on invalid pension, is entitled for appointment on compassionate grounds. If one goes through the instructions relied upon by the applicant it does indicate that the dependents of invalidated pensioners are entitled to be considered for appointment on compassionate grounds. However, to rebut this claim, learned counsel for the respondents brought to the notice of this Court, instructions dated 29.5.1992 (Annexure R-6). These instructions stipulate that "the question whether dependents /near relatives of invalidated ED Agents may continue to be considered for



compassionate appointment subject to certain conditions, has been re-examined in this office. With regard to all the relevant considerations, it is decided that it would not be desirable to extend the scope for compassionate appointments to cover the dependants / near relatives of the invalidated EDAs. These instructions further provide that the provisions contained in this letter under reference are inconsistent with those contained in this letter, the same shall stand superseded". In view of these instructions, the instructions relied upon by the applicants dated 4.8.1980 are of no avail as these stand superseded and the very base of claim of the applicant falls to the grounds. Once his claim is not tenable, he has no right or locus standi to challenge the appointment of the private respondent. Even otherwise, she has been appointed as her husband expired and her case is duly covered by the instructions. In view of this, the applicant cannot compare his case with her case. In any case, the applicant has not filed any rejoinder to rebut the claim of the respondents and existence of instructions issued in 1992 which have superseded the instructions of 1980. Once the claim of the applicant is not at all covered under the instructions or rules itself, no fault can be found with the action of the respondents in rejecting his case.

8. In view of what has been stated and discussed above, this O.A. turns out to be devoid of any merit and is rejected, leaving the parties to bear their own costs.


(KULDIP SINGH)
VICE CHAIRMAN

HC* January 28,2005.