

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BE NCH, JABALPUR

....

Original Application No. 20/2004

..... day of
Jabalpur, this the 16th/June, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

Ashwani Kumar Sharma
S/o late Shri Krishna Kumar Sharma,
aged about 38 years,
R/o village Mavai, Post Mavai,
District - Sidhi (Madhya Pradesh)

...Applicant

(By Advocate: Applicant in person)

-versus-

1. Union of India through
Secretary (Postal Service),
Ministry of Communication,
Dak Bhawan,
New Delhi
2. The Chief Post Master General,
Madhya Pradesh Circle, Bhopal (MP).
3. The Assistant Director,
Amla,
Indian Postal Department,
Chhattisgarh,
Sub-Division, Raipur (Chhattisgarh).
4. The Superintendent,
Post Office, Sidhi Shahdol Sub Division,
Shahdol (Madhya Pradesh).
5. The Assistant Superintendent,
Post Office, Sidhi Sub Division,
Sidhi (Madhya Pradesh)

...Respondents

(By Advocate: Shri P. Shankaran)

O R D E R (ORAL)

By Madan Mohan, Member (Judicial) -

By filing this original application, the applicant has sought the following main reliefs:-

- i) to issue a writ in the nature of certiorary or quashing order dated 19.12.2003 (A/1) issued by respondent no. 4 and also order dated 7.8.2003 issued by respondent no. 5.
- u ii) to issue a writ in the nature of certiorary quashing order dated 7.2.2001 (A/4) issued by respondent no. 2 and also for quashing any quential rejection order passed by respondents.
- iii) to issue a writ in the nature of mandamus commanding respondent to reinstate / continue the

applicant on the post of Postman(E.D.M./D.A.) and pay him regular salary alongwith consequential benefit assising thereof."

2. The brief facts of the case are that the father of the applicant Shri Krishna Kumar Sharma, who was working as Postman (EDMC/DA) at Post Office Dadhia, Churhat District Sidhi (MP), died in harness on 6.5.2000 leaving behind his widow, two sons and five daughters. The younger brother of the applicant Shri Vinod Kumar Sharma although is a Govt. employee but lives separately and is posted at Jaspur alongwith his family. His earning is meagre enough to support entire family. Therefore, the applicant being the elder son of the deceased employee submitted an application to the respondents for appointment on compassionate grounds supported with affidavits sworn by his mother and brother alongwith other testimonials as he was unemployed and unable to maintain the family. The applicant and his family members, who were facing accute financial crisis after the death of Shri Krishna Kumar Sharma, deceased employee, were highly shocked to receive the communication dated 7.2.2001 whereby the claim of the applicant seeking compassionate appointment was rejected mainly on the ground that his brother is a Govt. employee and family of the applicant is sufficient land/house.

2.1 As the applicant, whose family was struggling hard for survival due to accute financial crisis, submitted another application to the respondents for reconsideration/review of their earlier decision. The respondents, looking to the financial problem of the applicant and his family and also ^{provisional} to the qualification of the applicant, offered the applicant/ appointment to the post of EDMC/DA vide their letter dated 19.2.2001 which was subject to regular appointment on the said post. In compliance to the offer of appointment, the applicant joined and took the charge of EDMC/DA (Postman) Dadhia on 21.2.2001. Since his appointment on the said post the applicant maintained an unblemished service record to his credit as neither any enquiry nor complaint was ever made or is pending

(Signature)

against him. The applicant was shocked to receive letter dated 19.12.2003 issued by the respondents whereby the services of the applicant were terminated on the ground that since his application seeking appointment on compassionate ground has been rejected vide their order dated 7.8.2003. While passing the impugned order dated 19.12.2003 the respondents have completely overlooked the financial condition of the applicant and also the very fact that the provision appointment of the applicant will be subject to regular appointment. Moreover, the applicant was supplied with the order dated 7.8.2003 vide which his application for compassionate appointment has been rejected. Hence, the present original application has been filed seeking the aforesaid reliefs.

3. Heard the applicant, who is present in person, and also the learned counsel for the respondents and have perused the material on record.

4. It is argued by the applicant that his brother Shri Vino~~d~~ Kumar Sharma admittedly is a Govt. employee but he lives separately with his own family at Jaspur and his earnings are too meagre to maintain the entire family of the deceased employee. Hence, the family of the applicant is facing financial crisis and is unable to maintain the family. He further argued that on the one hand the respondents after looking to the condition of the applicant's family were kind enough to offer a provision appointment to the post of EDMC/DA(Postman), which was subject to regular appointment, on the other hand they without considering the said fact and even without applying their mind rejected the request of the applicant seeking compassionate appointment vide order dated 7.8.2003 which order was even not supplied to him. It is more surprising that after rejection of his application for compassionate appointment, they terminated the services of the applicant, which was provisional in nature but subject to any regular appointment.



only on the ground that his application for compassionate appointment has been rejected. It is further argued that the respondents have not considered the case of the applicant in a proper manner. Hence, the O.A. is liable to be allowed.

5. In reply, the learned counsel for the respondents argued that it is clearly mentioned in para 3 of the provisional order dated 19.02.2001 that "the Assistant Superintendent of Post Office, Sidhi also reserves right to terminate the provisional appointment at any time before the period mentioned in para no. 1 above without notice and without assigning any reason." He further argued that the applicant has sufficient means to maintain the family and he is not facing any financial crisis. He further argued that the compassionate appointment is provided as an immediate remedy to the family of the deceased employee who suffers due to poor financial condition. He further argued that the brother of the applicant is a Govt. employee and it is his duty to look after the family of the deceased family.

6. After hearing the applicant and the learned counsel for the respondents and careful perusal of the material on record, we find that admittedly the brother of the applicant is a Govt. employee but he lives separately with his own family and his earnings are too meagre to maintain the entire family of the deceased employee. Hence, this ground of the respondents is not tenable and is rejected. We have also seen that the applicant was given provisional appointment only on the basis of his financial condition and qualification subject to any regular appointment. Therefore, the rejection of his request seeking appointment on compassionate grounds seems to be unjustified on the ground that the family of the applicant is not facing any financial crisis. It is also not fair on the part of the respondents to terminate the provisional appointment of the applicant without giving any



reason except the fact that his request for seeking appointment on compassionate ground is rejected. Hence, the action of the respondents rejecting the request of the applicant for compassionate appointment and termination of his provisional appointment is arbitrary, illegal and against the rules.

7. Having regard to the facts and circumstances of the case and in the light of observations made above, we allow the O.A. and quash the impugned order dated 19.12.2003 (A/1) vide which the provisional appointment of the applicant has been cancelled. The applicant is directed to submit a detailed representation to the respondents within a period of four weeks from the date of receipt of a copy of this order. If the applicant complies with the above direction, the respondents are directed to consider the said representation of the applicant sympathetically in accordance with rules and law and take a decision by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of such representation. No costs.


(Madan Mohan)
Member (J)


(M.P. Singh)
Vice Chairman

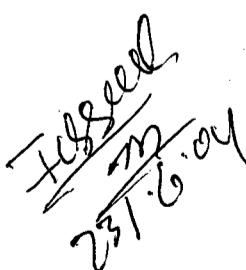
/na/

मुख्यमंत्री जी/न्या.....जबलपुर, दि.....
का. नं. नं. अधीक्षित:—

(1) राज्यपाल, उत्तर प्रदेश कार एकाडेमी, जबलपुर
(2) आवेदक श्री/महिला/कु.....रोड नामस्तल
(3) प्रत्यक्षी श्री/श्रीमती/कु.....के कार्यस्तल
(4) लोकपाल, लोकपाल, जबलपुर राज्यपाल


M. Singh
P. Mohan Kumar

मुख्यमंत्री एवं लोकपाल कार्यालयी को
Rajendra
23/6/04


Rajendra
23/6/04