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Central Administrative Tribunal
Jaipur Bench, JAIPUR


ORDERS OF THE BENCH

15th September, 2009

OA. 285/2006
MA 382/2008

Present: None for applicant
Shri Praveen Poswal proxy for Sh. V.S.Gurjar, counsel for
respondents

None for the applicant. Let the matter be listed for hearing
on 6.10.2009


(M.L. Chauhan)
Member (Judicial)


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6-10-2009

OA 285/06
MA 382/2008

Mr. Anupam Agarwal, counsel for applicant
Mr. V.S. Gurjar, Counsel for respondents

Heard the learned counsel
for the parties. For the reasons dictated
separately, the OA stands disposed of


(M.L. Chauhan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 6th day of October, 2009

ORIGINAL APPLICATION No.285/2006
With MA No.382/2008

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Bajranglal Vaishnava
s/o late Shri Radhey Shyam Vaishnava,
r/o Village Kanpura vis Srinagar,
Tehsil Nasirabad,
District Ajmer.

.. Applicant

(By Advocate: Mr. Anupam Agarwal)

Versus

1. Union of India,
through the Secretary,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi.
2. The Post Master General, Rajasthan,
Southern Region, Ajmer.
3. The Superintendent of Post Office
Beawar, District Beawar.

... Respondent

(By Advocate: Mr. V.S.Gurjar)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the
following reliefs:-

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It is therefore prayed that after calling the relevant record pertaining to his consideration for compassionate appointment and perusing the same the impugned order Annexure-A/1 may kindly be quashed and set-aside. Respondent should be directed to re-consider his claim for such appointment against all the posts as per his qualification and given appointment on compassionate ground.

Any other relief which this Hon'ble Tribunal deems fit in the facts & circumstances of the case should be granted. Cost of the application should also be granted to the applicant.

2. Briefly stated, facts of the case are that father of the applicant late Shri Radhey Shyam Vaishnava while working as Mail Overseer, Nasirabad Post Office, District Ajmer died on 19.3.2003. Consequently, the application submitted by the applicant, which was received in the office of respondent No.3 on 9.4.2003 was forwarded to respondent No.2 vide letter dated 5/10.11.2003. The case of the applicant alongwith other persons was considered by the Circle Relaxation Committee (CRC) on 1.2.2005 and 10.2.2005 for appointment on compassionate grounds in the light of the instructions issued by the Department of Personnel and Training which have been placed on record by the respondents with the reply as Ann.R1 to R6. However, the CRC did not find case of the applicant most indigent in comparison to other candidates and rejected claim of the applicant. The recommendation of the CRC was conveyed to the applicant vide letter dated 13/18.4.2005 (Ann.A.1). It is this order which is under challenge before this Tribunal.

3. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, the respondents have

stated that the present application preferred by the applicant on 31.7.2006 after a period of more than one year is time barred, as decision of the CRC was communicated to the applicant on 18.4.2005 and the same was delivered to the applicant on 20.4.2005. On merits, the respondents have stated that case of the applicant was considered by the CRC against the vacancies for the year 2003 alongwith other cases. There were four vacancies in PA/SA cadre, one in Postman cadre and one Group-D cadre. The applicant was eligible for PA/SA as per his educational qualification. It is further stated that the CRC observed that the deceased employee expired on 19.3.2003; leaving behind a widow, four married daughters and one married son. The family is in receipt of family pension to the tune of Rs. 1788 +DR, which is more than the allowances of Gramin Dak Sevak of the Department who maintain their family within those allowances properly. The family also received terminal benefits to the tune of Rs. 147029. The family had no liabilities of marriage of daughters and education of minor children. The applicant is major and can assist the widow by doing some private job. On the basis of these facts and circumstances, the Committee made an objective assessment of the financial condition of the family, and did not find the case of the applicant most indigent in comparison to other cases and therefore, rejected claim of the applicant for appointment on compassionate grounds. The respondents have also placed on record a comparative chart of approved candidates and showing the remarks made by the Committee as Ann.R/7.

4. The applicant has filed rejoinder thereby reiterating the submissions made in the OA.

5. The applicant has also moved an application for condonation of delay which was registered as MA No.382/2008. In this MA, the applicant has stated that the applicant has also preferred a legal notice through his counsel. The said notice was replied vide letter dated 20.6.2006 (Ann.A/5). The learned counsel for the applicant submits that if the period is computed from the letter dated 20.6.2006 (Ann.A/5) which has been annexed in the main OA at the time of filing of the OA, the OA is ^{almost} within limitation, as the OA was filed 1.8.2006 and there is a delay of about two months. It is further stated in the MA that the applicant was pursuing the remedy as per the legal advice bonafidely and delay, if any, deserves to be condoned. The respondents have filed reply to this MA, thereby opposing claim of the applicant. I have given due consideration to the submissions made by the learned counsel for the parties. I am of the view that the delay of about few months in filing the OA is not fatal and the matter is required to be examined on merit. Accordingly, MA for condonation of delay is allowed.

6. I have heard the learned counsel for the parties and gone through the material placed on record. From the material placed on record, it is evident that case of the applicant alongwith other persons was considered by the CRC for appointment on compassionate grounds. From the material placed on record it is also evident that in the year 2003 when case of the applicant was considered there were only four vacancies in PA/SA cadre against

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considered there were only four vacancies in PA/SA cadre against which category, the applicant was eligible for consideration in view of his educational qualification. It is also evident from the material placed on record that the CRC has taken into consideration the terminal benefits received by the family, income of the family from other sources, size of the family and liability, if any, and based on these factors, the Committee has recommended the case for compassionate appointment of most deserving candidates and rejected claim of the applicant. At this stage, I wish to reproduce the comparative chart of the approved candidates vis-à-vis the applicant and prepared by the respondents against vacancies of the year 2003 which has been placed as Ann.R/7 and thus reads:-

Sl. No.	Name of applicant	Date of birth	Date of Super-annuation	Amount of pension	Amount of terminal benefits	Property	In Come from other source	De Pen dent	Un Married Son/ daughter	Minor Children	Remarks
1	Shri Kamal Sen	06.09.03	31.8.2016	1790+DR	152225	Nil	Nil	5	1 2	1	Approved For PA Cadre
2.	Shri R.K.Meena	21.8.02	31.10.2016	1275+DR	42885	Own House Land 7.25 Bighas	5000	5	1 1	-	Approved For PA Cadre to Invalid Retirement On medical ground
3.	Shri Hanuman Sahai Meena	17.3.99	31.12.2018	1637+DR	160240	Own House	Nil	5	2 1	2	Approved For PA Cadre
4.	Shri Ashok Kumar Bhagat	13.04.96	31.07.2017	1450+DR	87677	No	Nil	3	2 1	1	Approved For PA Cadre. Mother of the applicant also expired
5.	Shri Mahendra Kumar	23.6.02	30.6.2017	1755+DR	138353	Own House	Nil	4	2 1	2	Approved for Postman cadre
6.	Smt. Geeta Devi	7.3.2003	31.11.2029	1420+DR	67510	No	Nil	4	2 1	3	Approved for Group-D Cadre
7.	Shri Bajrang Lal	19.3.03	31.12.2007	1788+DR	149872	No	Nil	2	Nil Nil	Nil	Rejected

The name of the applicant find mention at Sl.No.7 of this comparative statement which has been reproduced hereinabove. It is evident from this statement that family of the applicant consists of only two persons i.e. widow and the applicant who was major. The family has also received terminal benefits to the tune of Rs. 149872/-. There was no liability in the nature of minor son and daughter. Thus, if the case of the applicant is considered vis-à-vis the candidates who have been approved by the Committee, it cannot be said that the discretion exercised by the authorities keeping in view the scheme and the rational behind the compassionate appointment is arbitrary. The only submission made by the learned counsel for the applicant is that the family of the applicant does not have any property whereas persons whose name find mention at Sl.No. 2 and 3 and their names have been recommended by the Committee are having their own house in the case of Sl.No.2 and income of Rs. 5000 p.a. Thus, according to the learned counsel for the applicant, case of the applicant is more deserving. According to me, such a contention on behalf of the applicant cannot be entertained. As already stated above, family of the applicant consists of two members i.e. widow and the applicant, who is major and as such he can contribute to the income of the family whereas in the case of persons mentioned at Sl.No. 2 and 3 of the chart, the size of the family and liability is definitely much more than the applicant as in the case of person at Sl.No.2 there were 5 members dependent on the family income and there is liability in the nature of unmarried son and daughter

and in the case of candidate at Sl.No.3 the family consists of five members and there is liability of 3 children, out of which 2 children are minor. If one has regard to the financial condition of the family of the applicant, it cannot be said that financial condition of the family is penurious on the face of the family receiving pensionary benefits of Rs. 1788+DR and also terminal benefits to the tune of Rs. 149872/- and there is no liability and applicant can also contribute to the income of family being major. Further, the question whether the deceased had left the family in penury and without any means of livelihood is to be decided by the competent authority after taking into consideration various factors for assessing financial condition of the family and the court should not normally interfere with the decision of the authority.

7. The law on this point is no longer res-integra. The Apex Court in the case of State Bank of India and Ors. vs. Jaspal Kaur, (2007) 2 SCC (L&S) 578 has held that where the competent authority has taken a view that the deceased family was not in penurious condition and accordingly declined compassionate appointment, it was not open for the High Court to disturb the objective findings of the authority specially constituted for the purpose. If the matter is viewed from the law laid down by the Apex Court in the case of Jaspal Kaur (supra) and the fact that compassionate appointment cannot be claimed as a matter of right and specially constituted committee after taking into consideration the scheme and instructions issued by the department has come to the objective finding that the applicant does not deserve for appointment on

compassionate grounds, it is not legally permissible to disturb such findings given by the competent authority who is better equipped to decide the case on the facts of the case.

8. Accordingly, the present OA is bereft of merit, which is dismissed with no order as to costs.



(M.L. CHAUHAN)
Judl. Member

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