

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

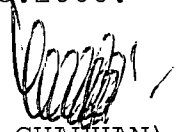
ORDERS OF THE TRIBUNAL

14.05.2008

OA No.72/06

None present for the applicant
Mr. Gaurav Jain, counsel for respondents

At the request of the learned counsel for the respondents, let the matter be listed on 22.5.2008.

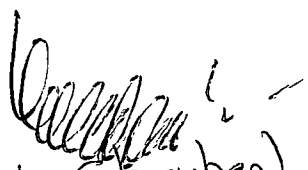

(M.L. CHAUHAN)
Judl. Member

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22.5.2008

Mr. N.C. Broyal, Counsel for applicant.
Mr. Gaurav Jain, Counsel for respondents

Heard learned counsel for the parties.
For the reasons dictated separately,
the OA is dismissed.


(M.L. Chauhan)
M(I)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 22nd day of May, 2008

ORIGINAL APPLICATION No.72/2006

CORAM:

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

Jitendra Mittal
s/o late Shri Dev Prasad Mittal
r/o 63, Tilak Colony,
Kherli Phatak,
Kota (Rajasthan)

.. Applicant

(By Advocate: Shri N.C.Goyal)

Versus

1. Union of India through Secretary to the Government of India, Dept. of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur
3. Senior Superintendent of Post Offices, Kota Division, Kota.

... Respondents

(By Advocate: Shri Gaurav Jain)

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ORDER (ORAL)

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

"That the entire record of the Circle Selection Committee right from 05.11.2003 to 22.08.2005 be called for and after perusal of the same, the Hon'ble Tribunal be pleased to

- (i) To set aside and quash the communication dated 07.11.2005
- (ii) The Hon'ble Tribunal be further pleased to direct the respondents to give the appointment on compassionate ground to the applicant.
- (iii) Due to arbitrary action and vague and non speaking communication dated 07.11.2005, the applicant had been dragged into litigation for which, the Hon'ble Tribunal is requested to direct the respondents to pay a cost of Rs. 25,000/- for litigation and mental harassment.
- (iv) Any other order/direction which is in favour of the applicant be also passed."

2. Briefly stated, facts of the case are that father of the applicant late Shri Dev Prasad Mittal, while working as Accountant in the office of Head Post Office, Nayapura, Kota under the control and Supervision of Senior Superintendent of Post Offices, Kota Division, Kota died on 6th June, 2003. It is case of the applicant that application for compassionate appointment in the prescribed proforma was sent to the respondents on 5.11.2003. The matter was considered by the Circle Selection Committee (hereafterafter referred to as CSC) in its meeting held on 22.8.2005 and the Committee after objective assessment of the financial condition of the family did not find the family in indigent condition by making the following observations:-

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".... Committee observed that-

- (a) The Ex-official expired on 06.06.2003.
- b) As per synopsis, the Ex-employee had left wife and one unmarried son.
- (c) As per educational qualification, the applicant was eligible for appointment on compassion ground on the post of Postal Asstt./SA.
- (d) The family is getting family pension amounting to Rs. 3625/- + DR per month.
- (e) The family has received the terminal benefit to the tune of Rs. 6,51,850/-
- (f) In assets, the family has own house to live.

The Committee considered the case in the light of Instructions issued by DOP&T OM dated 09.10.98 followed by clarification issued vide OM dated 03.12.99, 20.12.99, 28.12.99 and 24.11.2000 and vacancy position of the...

The Committee after objective assessment of financial condition of the family did not find the family in indigent condition and hence the case was rejected."

The main grievance of the applicant as raised in this OA is that the impugned order does not disclose as to whether any CSC met between 5.11.2003 to 22.8.2005 and what was the detailed position of the applicant qua the other candidates seeking appointment on compassionate ground. It is further stated that terminal benefits received by mother of the applicant had been exhausted in repayment of loans and in marriage of his sister and the indigent condition of a candidate seeking appointment on compassionate ground does not depend on the terminal benefits.

3. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, the respondents have categorically stated that case of the applicant for the purpose of giving

compassionate appointment against the post of Postal Assistant in Kota Division was considered in the light of the instructions issued by the DOP&T OM dated 9.10.98 followed by clarification issued vide OM dated 3.12.99, 20.12.99, 28.12.99 and 24.11.2000 and vacancy position of the cadre and the said committee did not find the family in indigent condition, hence rejected the case. According to the respondents, case of the applicant was required to be considered only if there was vacancy available for the purpose of granting compassionate appointment and in case the vacancy is not available it was not incumbent upon the respondents to convene meeting of the CSC for the purpose of consideration of cases for granting compassionate appointment. The respondents have specifically stated that vacancies of direct recruitment of Postal Assistant cadre of the year 2003 and 2004 were announced and published in the News papers on 14.8.2005 calling application by last date 31.5.2005. It is further stated that the vacancies for direct recruitment quota against compassionate appointment were approved and earmarked vide Chief PMG letter dated 22.8.2005 (Ann.R10). Thus, case of the applicant for the purpose of granting compassionate appointment was considered in the meeting of the CSC held on 22.8.2005. The respondents have further stated that consideration by the CSC was not only based on terminal benefits paid to the family of the deceased,

but there were certain other factors like assets and other sources of Income, Moveable/Immoveable properties, Agriculture Income/Houses, liabilities left behind, education of minor children/marriages etc. and for assessing the financial condition of such family, all these factors were taken into consideration and it was after considering the aforesaid factors, the Committee came to the conclusion that the family is not in indigent condition, hence the case was rejected. The applicant is only son left in liability and the education was almost completed and family was receiving family pension.

4. The applicant has not filed any rejoinder.

5. I have heard the learned counsel for the parties and gone through the material placed on record.

6. From perusal of the impugned order Ann.A1 and also observations made by the CSC, relevant portion of which has been reproduced above, it is quite evident that family is getting family pension amounting Rs. 3625+ DR per month and had also received terminal benefits to the tune of Rs. 6,51,850/-. The family has own house to live in. As such, it cannot be said to be a case where financial condition of the family is such which requires immediate assistance by way of appointment on compassionate grounds. Admittedly, the

family consists of widow and the applicant. Even for arguments sake the terminal benefits to the tune of Rs. 6,51,850/- received by the family is excluded for consideration, still the family is getting the family pension which, admittedly, comes to more than Rs. 5000/- (Rs. 3625+ DR). Thus, it cannot be said to be a case where the family is in such a indigent circumstances which warrants granting appointment on compassionate grounds.

At this stage, it may be noticed that the Hon'ble Apex Court has repeatedly held that appointment on compassionate grounds is violative of Article 14 and 16 of the Constitution of India. Such appointment can be justified only if financial condition of the family is so indigent that but for giving immediate financial assistance by way of granting compassionate appointment, the family cannot survive. The Apex court has categorically held that it only in exceptional circumstances that appointment on compassionate ground can be justified. Thus, I am of the firm view that this is not a case of such nature. Even the Apex Court in the case of Punjab National Bank and Ors. vs. Ashwini Kumar Taneja, 2005 (1) SLJ 30 has held that retiral benefits is a valid consideration for the purpose of granting appointment on compassionate grounds. The case of the applicant was considered at the first occasion, when vacancy arose. Since the CSC after objective assessment of financial condition of

the family did not find the family in indigent condition, case of the applicant was rejected and it is not open now for the applicant to insist that respondents should have disclosed name of persons who have been given compassionate appointment so that applicant could justify his appointment on compassionate grounds vis-à-vis the candidates who have been given appointment on compassionate grounds. As already stated above, right of consideration of the applicant will arise only if the financial condition of the family is assessed as indigent by the CSC. It is only thereafter the applicant may have a case that financial condition of the family of the deceased is more indigent than the persons who have been given compassionate appointment. This is not a case of such nature. Thus, according to me, the applicant has no legal right to insist for compassionate appointment and ask for comparative position between the applicant and candidates who have been granted appointment on compassionate grounds.

7. For the foregoing reasons, I am of the view that the present OA is bereft of merit, which is accordingly dismissed with no order as to costs.


(M.L. CHAUHAN)

Judl.Member

R/