

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 23rd day of August, 2010

ORIGINAL APPLICATION NO. 232/2009

CORAM

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

Anil Kumar son of Late Shri Subhash Chandra by caste Garg, aged about 23 years, resident of 5/723, Garg Sadan, Indra Nagar, Near Meera Das Kunda, Bharatpur (Rajasthan).

.....Applicant

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Post Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent Post Offices, Bharatpur Division, Bharatpur.

.....Respondents

(By Advocate: Mr. Gaurav Jain)

ORDER (ORAL)

This is the second round of litigation. Earlier, the applicant had filed OA No. 414/2007 wherein the applicant had made grievances regarding Annexure A/1 whereby his case for compassionate appointment was rejected on the following grounds:-

1. The ex-official expired on 29.8.2005.
2. As per synopsis, the ex-employee had left widow and three unmarried sons.
3. As per educational qualification, the applicant was eligible for appointment on compassionate grounds on the post of P.A.
4. The family is getting family pension amounting to Rs.2682/- + DR p.m.

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5. The family had received terminal benefits to the tune of Rs.150960/-.
6. In assets, the family has own house to live in.

2. In earlier OA, the respondents alongwith the reply have also annexed a comparative chart for the vacancies in the year 2005 in the cadre of Postal Assistant and Postman. The case of the applicant was considered against the vacancy of Postal Assistant. From the perusal of the comparative chart, this Tribunal had observed that the candidates who have been approved against the post of Postal Assistant were more deserving than the applicant. It was further observed that persons who have been approved for compassionate appointment; there were more liabilities in the nature of unmarried daughter and minor children whereas there was no such liability so far as the applicant is concerned and thus the action of the respondents in rejecting the case of the applicant cannot be faulted. The oral contention ^{was} raised by the learned counsel for the applicant that if the applicant's case had also been considered against the post of Postman category and in that eventuality, he has a better claim than the person who has been approved for the said category as per the comparative annexed with the reply. However, this Tribunal observed that this new plea taken by the applicant on the basis of oral argument without any pleadings to this effect cannot be entertained and the applicant was permitted to withdraw the OA with liberty reserved to him to file substantive OA thereby raising his grievances regarding non consideration of his case in the cadre of Postman on the basis of comparative chart placed by the respondents on record.

3. Now the applicant has filed this OA thereby challenging the validity of the impugned order dated 13.06.2007 (Annexure A/1) although on same facts but entirely on different grounds viz. that one Shri Mahaveer Kumar Mahawar, whose name find mentioned at sr. no. 10 of the comparative chart, was a less deserving candidate as compared to him. In order to substantiate this plea, it has been pleaded that in the case of Shri Mahaveer Kumar, the family is receiving pension of Rs.2812 + DR whereas in the case of the applicant, the family was entitled to family pension of Rs.2682 + DR, (the difference of Rs.130) whereas the retrial benefits received by the family of Shri Mahaveer Kumar was Rs.4,68,337/- whereas the family of the applicant has received retrial benefits of Rs.1,50,960/-. Thus according to the learned counsel for the applicant, the family of the applicant was more indigent as compared to the family of Shri Mahaveer Kumar. It is on the basis of this limited ground, the applicant has prayed that his case for compassionate appointment has to be considered.

4. The respondents have filed their reply. The respondents have also annexed with the reply a comparative chart of compassionate appointment in the cadre of Postal Assistant and Postman against vacancies for the year 2005 at Annexure R/9. The name of Shri Mahaveer Kumar Mahawar find mentioned at sr. no. 10 whereas the name of the applicant find mentioned at sr. no. 11. The fact that terminal benefits and pension paid to the widow of the family of Shri Mahaveer Kumar are more as compared to the family of applicant has not been disputed by the respondents. However, it has been stated that in the case of Mahaveer Kumar, the number of dependant persons

are 9 whereas the number of dependant persons in the case of the applicant is only 4. It is further pleaded that in the case of Shri Mahaveer Kumar, there is liability of two unmarried daughter but in the case of the applicant, there is no such liability. Thus according to the respondents, the condition of the family in the case of Shri Mahaveer Kumar is more indigent in comparison to the condition of the family of the applicant. It is further submitted that in the case of the applicant, all the three sons were major on the date of death of the employee and also able to earn livelihood by doing some job and they can easily assist the family. Thus according to the respondents, the committee did not find the family of the applicant as more indigent in comparison to other cases as per comparative chart (Annexure R/9). Hence the case of the applicant was rightly rejected.

5. I have given due consideration to the submission made by the learned counsel for the parties and have also gone through the material placed on record. On the face of the finding recorded by the Circle Relaxation Committee whereby the case of Shri Mahaveer Kumar was approved for Postman and the case of the applicant was rejected, it is not permissible for this Tribunal to substitute the finding of the Circle Relaxation Committee in exercise of power of judicial review. However, the finding so arrived by the Circle Relaxation Committee is based upon the aforesaid facts cannot said to be arbitrary or based on no evidence especially when there was no liability of education and marriage of daughter in the case of the applicant's family whereas in the case of Shri Mahaveer Kumar, there was liability of two unmarried daughters, which is one of the valid consideration in order to assess the indigent/financial condition of the

family. In the case of the applicant, all the three sons are major and the family is also receiving pensionary benefits of Rs.2682/- + DR per month, as such, it cannot be said that the condition of the family of the applicant is in indigent circumstances and the case of the applicant was more indigent as comparison to the case of Shri Mahaveer Kumar.

6. For the foregoing reasons, the OA is bereft of merit and is accordingly dismissed with no order as to costs.



(M.L. CHAUHAN)
MEMBER (J)

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