

08/01/2013

O.A. NO. 578/2011

Mr. M. C. Gupta, Counsel for applicant.  
Mr. Mukesh Agrawal, Counsel for respondents.

Heard.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

K.S. Rathore  
[Justice K.S. Rathore]  
Member (J)

THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Dated, this the 8<sup>th</sup> day of January, 2013

ORIGINAL APPLICATION No. 578/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)

Jai Prakash Mehra  
s/o late Shri Jeevan Ram Mehra,  
aged about 25 years  
r/o 1378, Darjiyo Ki Gali,  
Near Suncity Hotel,  
Gangapole, Jaipur

.. Applicant

(By Advocate : Shri M.C.Gupta)

Versus

1. Union of India  
through Secretary,  
Department of Posts,  
Dak Bahwan,  
New Delhi.
2. The Chief Post Master General,  
Rajasthan Circle, Jaipur
3. Assistant Post Master General  
(Staff/Vigilance),  
O/o Chief Post Master General,  
Rajasthan Circle, Jaipur
4. Senior Superintendent of Post Offices,  
Jaipur City Division, Jaipur

.....Respondents

(By Advocate : Shri Mukesh Agarwal)

ORDER (ORAL)

Father of the applicant late Shri Jeevan Ram Mehra was working on the post of Postman with the respondent Postal Department and after a prolonged illness of about two and half years died on 31.10.2005. After death of father of the applicant, his mother Smt. Kamla Devi also suffered from knee problem and Doctors advised her to undergo operation. Therefore, mother of the applicant moved application dated 29.11.2005 to give appointment to the applicant on compassionate grounds. Subsequent, mother of the applicant also died on 21.1.2006. When applicant received no response to the application dated 29.11.2005, applicant again submitted application dated 7.2.2006 for giving him appointment on compassionate grounds. It is alleged by the applicant that his application for compassionate was pending and the respondents only communicated the decision through letter dated 13.7.2011 for the first time.

2. Per contra, the learned counsel appearing for the respondents submitted that vide order dated 8.1.2007 the applicant was duly informed by respondent No.3 that the Circle Selection Committee met on 27.12.2006, after objective assessment of his case did not find the family in indigent condition and hence rejected his case. The order dated 8.1.2007



has never been challenged by the applicant and now on the basis of communication dated 13.7.2011, which is not an order but the respondent No.2 has informed the applicant that after a lapse of more than 5 years his case cannot be reconsidered, by concealing the order dated 8.1.2007, the applicant has filed this OA after a lapse of about 5 years. The Circle Selection Committee has considered the case of the applicant alongwith all such type of other cases and the case of the applicant could not be categorized as falling under extreme hardship deserving compassionate appointment, keeping in view all factors of the scheme.

3. The learned counsel appearing for the respondents also contended that similar controversy has been decided by this Tribunal in OA No. 155/2009 vide order dated 23.9.2010 holding that compassionate appointment is not a vested right which can be exercised at any time in future. Further referred case of HSEB vs. Krishna Devi reported in 2003 (3) SC 485 wherein the Apex Court held that compassionate appointment cannot be claimed as a matter of right against the guidelines prescribed by the Government. Similar view has been taken by the Apex Court in the case of Union of India vs. Jogendra Sharma reported in [2002 (2) SC SLJ 359] holding that the court cannot direct for appointment on compassionate grounds as the same de hors the



provisions of the scheme in force and if there is a provision of ceiling of 5% the Tribunal cannot compel the department to relax the ceiling to appoint a person on compassionate grounds. The learned counsel appearing for the respondents also referred to Department of Personnel and Training O.M. dated 9.10.1998 and 3.12.1999 (Ann.R/4 and R/5 respectively).

4. Having considered the rival submissions of the respective parties and upon careful perusal of the ratio decided by the Hon'ble Supreme Court and the factual aspect, it reveals that the case of the applicant has been considered by the Circle Selection Committee and the same was rejected vide order dated 8.1.2007 observing that the committee did not find the family in indigent condition, hence the case of the applicant could not be considered. In these circumstances, as per settled proposition of law as held by the Hon'ble Supreme Court (cited supra), I find no illegality in the order dated 13.7.2011 and also in the order dated 8.1.2008, which has not been challenged by the applicant. Therefore, the OA being devoid of merit fails and the same is hereby dismissed with no order as to costs.

  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/