

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 07.05.2013

OA No. 581/2011

Mr. Amit Mathur, counsel for applicant.
Mr. Mukesh Agarwal, counsel for respondents.

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

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 581/2011

DATE OF ORDER: 07.05.2013

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Khusee Ram S/o late Jagmohan Gurjar, aged about 19 years, R/o Village Karwari, Bayana, Bharatpur (Rajasthan).

...Applicant

Mr. Amit Mathur, counsel for applicant.

VERSUS

1. Union of India through its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Near M.I. Road, Jaipur.
3. Superintendent of Post Office, Dholpur Division, Dholpur.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER (ORAL)

The applicant has filed this Original Application praying for the following reliefs: -

"(i). The order annexure-A/1 dated 1-07-2011 may kindly be quashed and set aside. The respondents may be directed to give appointment to the applicant on compassionate ground.

(ii). Any other appropriate relief, which this Hon'ble Tribunal may feel proper in the facts and circumstance of this case, may kindly be allowed."

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2. The brief facts of the case, as stated by the learned counsel for the applicant, are that father of the applicant late Shri Jagmohan was posted as GDSBPM, Karwari, Dholpur. He died while in service on 11.10.2009. He left behind him five children including the applicant. At the time of his death, four of his children were major and the applicant was minor. All the major children were married.

3. Learned counsel for the applicant further submitted that immediately after the death of the applicant's father, an application was moved for appointment of the applicant on compassionate grounds. The applicant is 8th standard passed. The father of the applicant was having a land measuring 04 Bigha and 16.5 Biswa. From this land, total earning per month is Rs. 3166/-. Five families have share in it. There was a family house in the name of applicant's grand father. The father of the applicant were five brothers, therefore, the share of the applicant in the said house is less than a room.

4. Learned counsel for the applicant also stated that the applicant or any other member in the family is not receiving any family pension. The entire terminal benefits of the deceased were Rs. 1,31,715/-. No member in the family is in service either in government or private. The entire family

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is depending over the earning from the agriculture land, which is only Rs. 3166/- per month.

5. Learned counsel for the applicant further submitted that the respondents vide order dated 01.07.2011 (Annexure A/1) have rejected the claim of the applicant for appointment on compassionate grounds. As per the respondents, the income of Rs. 3166/- is sufficient to run five families. The respondents have rejected the claim of the applicant without objectively assessing the family circumstances of the applicant.

6. Learned counsel for the applicant also stated that the order dated 01.07.2011 (Annexure A/1) have categorically mentioned that the Circle Relaxation Committee (CRC) after making objective and comparative assessment did not find the case of the applicant as deserving and, therefore, did not recommend his case for appointment on compassionate grounds. He further argued that the applicant was the only candidate for being considered for appointment on compassionate grounds and the post of GDSBPM was also available and since he was the only candidate, therefore, the question of comparative assessment does not arise.

7. Learned counsel for the applicant also submitted that the agriculture income of Rs. 3166/- per month is shared by

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the brothers of the applicant and, therefore, the share of the applicant is only 1/5th of this income, which comes to around Rs. 600-700, which is not enough to maintain the family of the applicant and, therefore, the respondents be directed to reconsider his case afresh.

8. On the other hand, learned counsel for the respondents stated that Shri Jagmohan Gurjar, father of the applicant, while working as GDS BPM Karwari BO in a/c with Bayana MDG Division Dholpur expired while on duty on 11.10.2009. His 5 years and 8 months' service was left on the date of his death. Shri Jagmohan Gurjar left four sons and one daughter. Three sons of late Shri Jagmohan Gurjar were major on the date of his death and the applicant was 17 years old. The applicant applied for appointment on compassionate grounds to the post of Gramin Dak Sevak dated 02.05.2011. The case of the applicant was considered by the Circle Relaxation Committee (CRC) in the meeting held on 05.05.2011 as per the guidelines issued in this regard vide letter no. 17-17/2010-GDS dated 14.12.2010. The CRC after considering the case of the applicant for appointment on compassionate grounds observed that: -

(1). The Ex.GDSBPM had expired on 11.10.2009.

(2). The deceased had left behind only one unmarried dependant youngest son who had applied for it.

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(3). The family has own house to live in.

(4). The deceased has left 04 Bighas and 16½ Biswa agriculture land to his family while earning is Rs. 3,166 per month.

(5) The deceased family had got total discharges benefits to the tune of Rs. 1,31,715/-.

The CRC after making objective and comparative assessment; not found the case of the applicant as deserving, as such, not recommended for compassionate appointment. Learned counsel for the respondents also referred to the minutes of the Circle Relaxation Committee along with comparison chart (Annexure R/1 and R/2, respectively).

9. Learned counsel for the respondents further submitted that to maintain transparent criteria for adjudging degree of indigence of the GDS family by considering their cases for compassionate engagement, the department of post vide letter No. 17-17/2010-GDS dated 14.12.2010 (Annexure R/3) has issued guidelines in this regard. As per such guidelines, the case of the applicant was considered by the CRC on 05.05.2011 but the committee found that the condition of family was not deserving and vacancy was not

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available, as such not recommended for compassionate appointment.

10. Learned counsel for the respondents also submitted that the case of the applicant was objectively considered by the CRC but the family of the applicant was not found indigent. He further argued that the applicant is only 08th class passed, therefore, not eligible for the post of GDSBPM. He is only qualified for the post of GDS DA/MC. The vacancy in the cadre of GDS DA/MC was not available in the quota of compassionate appointment.

11. Learned counsel for the respondents further submitted that as per the guidelines of the department issued vide letter dated 01st August, 2011, the term 'hard and deserving cases' would mean cases over and above 50 merit points, whereas the applicant's merit points were only 18 as per the minutes of the Circle Relaxation Committee held on 05.05.2011 (Annexure R/2). Therefore, the applicant is not entitled for appointment on compassionate grounds. He further submitted that the compassionate appointment cannot be claimed as a matter of right. Therefore, the Original Application has no merit and it should be dismissed with costs.

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12. Heard the learned counsel for the parties and perused the documents available on record. From the perusal of the record, it is clear that the case of the applicant was considered by the respondents, and the Circle Relaxation Committee did not find the condition of the applicant as indigent and the vacancy of GDS DA/MC was also not available for which the applicant was qualified, therefore, the case of the applicant was not recommended for appointment on compassionate grounds. As per the policy of the department, any candidate who seeks appointment on compassionate grounds would be considered only in hard and deserving cases and also subject to the availability of vacancies for the purpose. The term 'hard and deserving cases' would mean cases over and above 50 merit points. In this case, the applicant has secured only 18 merit points as per the Minutes of the Circle Relaxation Committee held on 05.05.2011 (Annexure R/2). Moreover, the applicant is only 08th class passed; therefore, he is not entitled for the post of GDS BPM. According to his qualification, he is eligible to be considered for the post of GDS DA/MC but there was no vacancy for that post under the appointment on compassionate ground quota. Even if there was no other candidate for appointment on compassionate grounds, even then the applicant has no legal right for appointment on compassionate grounds unless he fulfills all the required conditions. In this case as stated above, the applicant is not

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qualified for the post of GDS BPM. There was no vacancy in the cadre of GDS DA/MC for which the applicant holds qualification. Moreover, the applicant got only 18 merit points whereas cases over and above 50 merit points is to be considered as hard and deserving cases. It is settled law that the applicant has no legal right for appointment on compassionate grounds. His case has been duly considered by the respondents and the CRC after making an objective assessment did not find his case deserving, as such, not recommended for appointment on compassionate grounds. Therefore, in my opinion, the applicant is not entitled for any relief in the present Original Application.

13. Consequently, the Original Application being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER