

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 600/2011

DATE OF ORDER: 14.07.2015

CORAM

HON'BLE MR. JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER

1. Shri Lokesh Kumar S/o late Shri Nirmal Ram, aged about 23 years R/o Giriraj Colony, Behind Railway School, Bharatpur, Rajasthan.
2. Smt. Shivrati W/o late Shri Nirmal Ram, aged about 49 years R/o Giriraj Colony, Behind Railway School, Bharatpur, Rajasthan.

...Applicants

Mr. Pushpendra Chansoria, counsel for applicants.

VERSUS

1. Union of India through Postmaster General, Rajasthan Circle, M.I. Road, Jaipur.
2. Sr. Superintendent, Railway Mail Services, R.M.S., JP Division, Jaipur.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER

The applicants challenge Annexure A/1 rejection order dated 24.08.2011 and sought for a direction to the respondents to give appointment to the applicant no. 1 on compassionate grounds.

2. Applicant no. 1, Lokesh Kumar, is the son of late Shri Nirmal Ram and Smt. Shivrati. Applicant no. 2, Smt. Shivrati is the wife of late Shri Nirmal Ram. Husband of the

applicant no. 2, Shri Nirmal Ram, expired while in service on 18.12.2010. At the time of death of Shri Nirmal Ram, he was a Stg. Asstt. SRO RMS JP Dn., Bharatpur. After the death of her husband, applicant no. 2 submitted an application for compassionate appointment in favour of her son Pawan Singh. Pawan Singh's qualification was only 7th pass. The department asked to applicant no. 2 to submit application of her or any other members of family, who has minimum qualification of Group 'D, which is matriculation, but she submitted the application in favour of Shri Pawan Singh.

3. On perusal of record, it is seen that the present applicant no. 1 had filed an Affidavit dated 16.05.2011 (Annexure R/4) while submitting the application of Pawan Singh. In the affidavit, the present applicant no. 1 sworn that he is not willing to be employed on compassionate grounds. In the affidavit, it is also stated that he has no objection in giving appointment to his brother Pawan Singh on compassionate grounds.

4. In the application submitted by the applicant no. 2 and Pawan Singh, the particulars of all dependents of Govt. servants have been mentioned. It is stated that the dependents of the deceased Govt. servant are his wife and three sons. It is stated in Part-II of the application that

Lokesh Kumar, present applicant no. 1, is employed and married.

5. The first application submitted by Pawan Singh with applicant no. 2 was examined by the department. The department found that the family received terminal benefits to the tune of Rs. 8,82,034/-, that the family is getting family pension amounting to Rs. 7,320/- + DR per month and that the family own house to live in. It is also found that the other two sons namely 1st applicant herein and Vishnu are married, employed and live with their own families separately. It has been found that the family has no such liabilities like marriage of unmarried daughter or education of minor children.

6. Annexure R/2 is the order dated 23.06.2011 passed by the department wherein it has been stated that the Circle Relaxation Committee considered the case of Pawan Singh and found that as per the educational qualification he is not eligible even for the post of Group "D" (MTS cadre) as minimum qualification for the post of Group "D" prescribed under new recruitment Rules is 10th standard. However, CRC has considered his case for engagement as trainee to the cadre of Group "D", under relaxation of normal recruitment Rules. The CRC after considering the family pension, terminal benefits, income of family value of

movable/immovable property, number of dependents, unmarried daughters, number of minor children and left over service of the employee, found that the family is getting family pension amounting to Rs. 7320/- plus DR per month, that the family had already received terminal benefits to the tune of Rs. 8,82,034/-, that family own house to live in, that the family has no such liabilities like marriage of unmarried daughter or education of minor children. After objective assessment of financial condition of the family as stated above and in view of limited vacancy position, the committee did not find the family in indigent condition and, therefore, the case was not recommended for appointment on compassionate grounds.

7. The annexure R/2 is order dated 23.06.2011 passed by the department stating all the details and reasons for not giving appointment to Pawan Singh on compassionate grounds. This order has not been challenged by Pawan Singh or applicant no. 2 and as such this order has attained finality.

8. The applicant no. 1, Lokesh Kumar, who is another son of the deceased Govt. servant, submitted another application with his mother (applicant no. 2) as co-applicant for his appointment on compassionate grounds. He is the very same person who submitted an affidavit before the

authorities at the time of submission of application of Pawan Singh in which he has stated that he has no objection in giving appointment on compassionate grounds to his brother Pawan Singh.

9. The authorities has rejected the application of the applicant no. 1 vide Annexure A/1 order dated 24.08.2011. It is stated in the Annexure A/1 order that the present applicant had submitted an affidavit stating that he is not willing to get appointment on compassionate grounds and he has no objection in giving appointment to his brother Pawan Singh. Therefore, the department has rightly found that the second application now presented by the applicant no. 1 herein is not maintainable and, hence, was rejected vide Annexure A/1 order dated 24.08.2011.

10. For the reasons as noticed above, this Tribunal is not inclined to interfere with the impugned order dated 24.08.2011 (Annexure A/1) passed by the authorities. In the facts and circumstances of the case, the Original Application is devoid of any merit and, accordingly, it is dismissed. There shall be no order as to costs.

11. However, learned counsel for the applicants submitted that the applicant no. 2 and her son Pawan Singh intend to challenge the order dated 23.06.2011 (Annexure R/2)

passed by the department before the appropriate forum. The said order was not challenged in time due to the reason that the present applicants challenged the rejection order Annexure A/1 dated 24.08.2011 passed by the authorities rejecting the second application of the applicant no. 1 for appointment on compassionate grounds. It is submitted that the present applicants were bonafidely prosecuting the order of rejection dated 24.08.2011 (Annexure A/1). In such circumstances, the applicant no. 2 and Pawan Singh were unable to challenge the order dated 23.06.2011 by which the application submitted by Pawan Singh was rejected. Therefore, it is made clear that the aggrieved persons are at liberty to challenge the order dated 23.06.2011 by filing substantive O.A. They are also at liberty to explain the delay caused in challenging the said order especially the reasons of bonafidely challenging and prosecuting the order dated 24.08.2011 by filing the present Original Application.


(JUSTICE HARUN-UL-RASHID)
JUDICIAL MEMBER