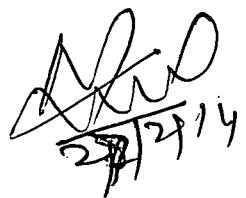


27/02/2014

OA No. 373/2012

Order pronounced today in the open
Court, by the Hon'ble Bench.


27/2/14

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION No. 373/2012

Order Reserved on : 25/02/2014

Order Pronounced on : 27/02/2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Vijay Kumar Dandoria S/o Late Shri Kishan Chand, aged about 25 years,
R/o Adarsh Nawal Basti, Hasanpura, Jaipur.

....Applicant.

Mr. Anand Sharma counsel for the applicant.

V E R S U S

1. The Union of India through Secretary, Ministry of Communication and Information Technology, Department of Posts, Government of India, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Saradar Patel Marg, C-Scheme, Jaipur.
3. The Assistant Post Master General (S&V), O/o Chief Post Master General Rajasthan Circle, Sardar Patel Marg, C-Scheme, Jaipur.

....Respondents.

By Shri Mukesh Agarwal, counsel for the respondents.

O R D E R

This O.A. has been filed by the applicant praying that the respondents be directed to give compassionate appointment to the applicant. The brief facts of the case as stated by the learned counsel for

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the applicant are that father of the applicant died during the service of the respondents department leaving behind him a family of five members. One of the brothers of the applicant aged about 26 years is physically handicapped, The mother of the applicant is bedridden on account of acute arthritis and thyroid. The applicant has one sister who is married.

2. Due to the indigent condition of the family of diseased, the applicant applied for appointment on compassionate grounds. However, the respondents vide their letter dated 03/06/2011 rejected the request of the applicant for appointment on compassionate ground.

3. Being aggrieved by the decision of the respondents he filed O.A. No. 387/2011 before this Tribunal. The Hon'ble Tribunal directed the applicant to submit a representation before the Competent Authority who was to decide the representation with a reasoned and speaking order.

4. In compliance of these directions the applicant submitted a representation which has also been rejected by the respondents vide their letter dated 20/21-12-2011 (Annexure A/1).

5. The learned counsel for the applicant submitted that his financial status has not been correctly assessed by the respondents. Having overlooked the fact that the mother of the applicant is bedridden due to the arthritis and thyroid and that one of his brother is handicapped, therefore, the liability of the brother will continue till his lifetime.

6. He further submitted that the family of the applicant is living in ancestral house in which they have just one room with kitchen. The father at the time of death left liabilities of the repayment of loan etc. which has

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been adjusted from the retiral benefits. Some private loans have also been paid by the family of the applicant.

7. That the applicant is a Schedule Caste candidate, therefore, the respondents should apply the policy of reservation for filling up the post against appointment on compassionate grounds. The respondents are not applying the policy of reservation on appointment made under this policy. Therefore, the respondents should be directed to give appointment on compassionate grounds applying the reservation roster.

8. The learned counsel for the applicant submitted that three persons namely Shri Yogesh Bansiwal, Shri Siyaram Meena and Shri Ramesh Prajapat were given appointment on compassionate grounds. They have less merit than the applicant. Therefore, the applicant should also be given appointment on compassionate grounds.

9. On the other hand the learned counsel for the respondents submitted that the case of the applicant was considered for appointment on compassionate grounds. After objective assessment of financial condition of the family in comparison to recommended ones and in view of limited vacancy position, the Circle Relaxation Committee did not find the family of the applicant in indigent condition and hence the case of the applicant was not recommended for appointment on compassionate grounds. Accordingly, the decision of the CRC was communicated to the applicant by competent authority Respondent No. 2 vide his letter No. Rectt./4-24/2010 dated 03-06-2011.

10. The compassionate appointment can be provided only to fill up to 5% of the vacancies that arises within a year for direct recruitment.

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Moreover, appointment on compassionate ground is not a vested right of the applicant.

11. The respondents in compliance of the order of this Tribunal passed in O.A. No. 387/2011 have considered the representation filed by the applicant and decided by a reasoned and speaking order dated 20/21-12-2011 (Annexure A/1). There is no illegality or irregularity in this order.

12. He further submitted that in the rejection order it has been clearly stated that the case of the applicant for compassionate appointment for the year 2010 was considered along with 41 other candidates. The Circle Relaxation Committee considered all the cases under its limits by adopting yard sticks based on hundred point scale of the various attributes fixed to make comparative, balanced and objective assessment of financial condition of the each case and recommended the most deserving cases based on merit to the extent of available vacancies. The case of applicant was not found indigent being the applicant awarded 47 points which placed the applicant at 27th position against total vacancies of 15. Most deserving cases who secured higher points than the applicant were recommended. Hence the name of the applicant was not recommended.

13. This shows that since the applicant was lower in merit therefore he could not be given appointment on compassionate grounds. Thus there is not illegality in the action of the respondents.

14. He further submitted that there is no provision under scheme for reservation for reserved category candidate for appointment on compassionate grounds. However, the candidate so selected will be adjusted against particular category in the roster.



15. With regard to the contention of the learned counsel for the applicant that he has an elder brother who is handicapped, the learned counsel for the respondents submitted that he cannot be said as dependent on the applicant as he is eligible to apply for the facilities, concessions and benefits admissible under the various schemes of the government. Therefore, no additional marks could have been given on this basis.

16. The learned counsel for the respondents submitted that free medical facility is available to the mother of the applicant in government hospital in Jaipur. Moreover, she is a card holder of Postal Dispensary where she can avail the free medical facilities and there is no provision to give weightage for such facts.

17. The learned counsel for the applicant argued that in his representation he has given the names of the three persons who have been given appointment of compassionate grounds who were less meritorious to the applicant. But, the respondents have not considered this point in reply to these averments. The learned counsel for the respondents submitted that the applicant has not made these three persons parties in this OA nor has submitted any evidence in support of his allegations. Moreover, they were not given appointment on the basis of Circle Relaxation Committee which made to consider the case of applicant and 41 other candidates. Those persons were given appointment based on the comparative merit of the candidates who were considered by that Circle Relaxation Committee. As some of the candidates are given appointment on the basis of the earlier recommendation and some new cases are aided in each Circle Relaxation Committee, therefore the comparative merit would also change. He further submitted that Hon'ble Apex Court has already held that appointment on compassionate grounds is not

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source of employment nor it is a vested right. His case was duly considered on merit and rejected because he was lower in the merit.

18. The learned counsel for the applicant has also filed rejoinder.

19. Heard the learned counsel for the parties and perused the documents on record. The facts are not disputed between the parties that father was the employee of the respondent department. That he died while in service and therefore the applicant was eligible to apply for appointment on compassionate ground on his death.

20. The applicant applied for appointment on compassionate ground. His case was considered by the respondents but rejected. Therefore the only question before the Tribunal is whether the case of the applicant was wrongly rejected.

21. I am in agreement with learned counsel for the respondents that no additional weightage could have been given to the applicant on the ground of sickness of his mother nor on the ground that his elder brother is handicapped. As the respondents have stated that the mother of the applicant is card holder therefore she is entitled for free medical facilities. Similarly his brother being handicapped is entitled for the benefits under various schemes of the government of India including employment.

22. With regard to the submission of counsel for the applicant that three other candidates having less merit than the applicant have been given appointment by the respondents it has been made clear by the respondents that those candidates were not selected on the basis of same Circle Relaxation Committee recommendations which has considered case of the applicant. I agree with the submission made by the learned counsel for the respondents that each Circle Relaxation Committee draws

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a merit list of all the candidates whose applications are before it, then prepares a combined merit based on 100 point scale. Therefore, it is not necessary that if a candidate having less mark in particular committee is appointed then the candidates above that cut off marks in the next Circle Relaxation Committee may also be given appointment on compassionate grounds. The appointment on compassionate grounds depends on number of vacancies available at a particular point of time. If the applicant was also considered by the same Circle Relaxation Committee which considered the case of Shri Yogesh Bansiwal, Shri Siyaram Meena and Shri Ramesh Prajapat and if, they were offered appointment bearing less marks than the applicant, then certainly applicant had a cause to agitate.

23.. The respondents have made it clear that the policy of reservation is not applicable at present on the appointment made under the scheme of compassionate appointment. Therefore, on this score also the applicant is not entitled for any relief at present.

24.. From the perusal of the pleadings it is clear that the case of the applicant was duly considered by the Circle Relaxation Committee along with 41 other candidates. At that point of time there were six vacancies of the P.A., five vacancies of the Postmen and four vacancies in Group 'D' (MTS) cadre, earmarked for the compassionate appointment for the year 2010. The Circle Relaxation Committee considered all the cases by adopting yardstick based on 100 point scale of the various attributes fixed to make comparative, balanced and objective assessment of financial condition of each case. The applicant was awarded 47 points on a scale of 100 points and he was placed at 27th position against the 15 vacancies which were under consideration. Therefore, the case of the applicant was not found comparatively more indigent than the other candidates who secured higher merit point than the applicant. While rejecting the

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representation of the applicant vide order dated 20/21-12-2011 (Annexure A/1) the respondents have also enclosed the copy of the comparative information showing the indigency of the candidates at Annexure-A of the rejection order. This annexure shows that not only the applicant who secured 47 marks but also some other candidates who secured more marks than the applicant have also not been recommended by the Committee. Only 15 candidates have been given appointment who secured more marks than the applicant. Therefore, I do not find any infirmity or illegality in the action of the respondents in the matter of consideration of the applicant for appointment on compassionate grounds. I do not find any illegality or irregularity in the letter dated 03/06/2011 vide which applicant was informed that his case was not recommended for appointment on compassionate ground and also in the letter dated 20/21-11-2011 vide which representation has been rejected by the respondents.

25. Thus, on the basis of the above discussions, I am of the opinion that the applicant has not been able to make out any case for interference by this Tribunal.

26.. Consequently the present O.A. is dismissed being devoid of merits with no order as to costs.


(ANIL KUMAR)
ADMINISTRATIVE MEMBER