

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
O.A. No.060/00968/14

**Pronounced on: 29.5.2015
Reserved on: 27.05.2015**

Madhu Sudan s/o late Sh. Mela Ram, Ex. Mail Overseer, Sub Division Dasua, resident of Village Bhater, Tehsil Dasua, District Hoshiarpur.

...APPLICANT
BY ADVOCATE: NONE

VERSUS

1. Union of India through its Secretary, Department of Post and Telegraph, New Delhi.
2. Post Master General, Punjab Region, Sandesh Bhawan, Sector 17-E, Chandigarh.
3. Senior Superintendent of Post Offices, Hoshiarpur, District Hoshiarpur.

...RESPONDENTS

BY ADVOCATE: **SH. ARVIND MOUDGIL**

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act 1985 seeking the following relief:-

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“(i) For quashing of the Minutes of Meeting dated 06.01.2010 and order dated 13.01.2010 and order dated 19.09.2014 vide which the applicant has been informed that the case of appointment on compassionate grounds has been rejected.

(ii) For issuance of a direction to the respondents to appoint the applicant on compassionate ground on account of death of father of the applicant while in service, being indigent family.

2. Averment has been made in the OA that the father of the applicant who was working as Mail Overseer in the respondent department and was posted in Sub Division Dasua, District Hoshiarpur, died while in service on 03.11.2006 leaving behind his widow and four children. The applicant applied for the post of Postman on compassionate grounds as he was a Matriculate and his case was recommended by the Sub-Divisional Office and respondent No. 3 (Annexure P-3). However, respondent No. 2 issued the impugned order, addressed to office of respondent No. 3, whereby it was informed that the Circle Relaxation Committee (CRC) in its meeting held on 06.01.2010 had rejected the case of the applicant on the ground that the applicant's family was not found in an indigent condition as compared to other cases (Annexure A-6). The applicant was not supplied with any material as to how the case of the applicant was compared to other cases. He obtained all this information through RTI on 13.01.2014 and then filed this OA.

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3. In the grounds for relief, it has interalia been stated as follows:-

- (i) That the rejection of the case of the applicant on compassionate ground smacks of arbitrariness and the impugned order has been passed without following the procedure prescribed under the policy of appointment on compassionate grounds.
- (ii) That the decision of Circle Relaxation Committee finding the family of the applicant not indigent is based on assumptions and presumptions and without considering the documents and the recommendations made by respondent No. 3.
- (iii) That the cases of other candidates for compassionate employment approved by the Circle Relaxation Committee are less indigent than the case of the applicant as established from the documents produced on the record by the applicant.

4. In the written statement filed on behalf of the respondents, preliminary objection has been taken that the OA is barred on account of limitation. Through the instant OA, the applicant had impugned the minutes of CRC meeting held on 06.01.2010, order dated 13.01.2010 and order dated 19.09.2014. Letter dated 19.09.2014 was only a reiteration of letter dated 13.01.2010. The case of the applicant had thus been rejected in January, 2010 while the present OA had been filed in October, 2014 and hence was time-barred.

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5. It has further been stated that the father of the applicant, namely, Sh. Mela Ram was a Mail Overseer in Hoshiarpur Division, when he died on 03.11.2006 after rendering a total service of 29 years 4 months and 12 days. His left over service for superannuation was 4 years 4 months. He left behind a widow, two unmarried sons, one married and one unmarried daughter. The family of the deceased is residing in the ancestral house. The family of the deceased was sanctioned discharge benefits of a sum of Rs. 4,46,026/- . Besides, the family of the deceased is drawing family pension of Rs. 4,981/- per month. The widow of the deceased preferred claim for engagement of her elder son as Postman on compassionate grounds on 07.02.2008. Meanwhile, widow again requested for compassionate appointment vide her application dated 03.09.2008. She was accordingly replied that the case of the applicant shall be placed before the upcoming CRC for consideration. 23 applicants were considered against 6 vacancies of Postman Cadre Group 'C' for the purpose of compassionate appointment in the CRC meeting held on 06.01.2010 and keeping in view all the aspects, namely, ceiling of 5% quota of direct recruitment vacancies, financial condition, assets, liabilities, marriage and education of the children and other circumstances of the families of the deceased employees, CRC did not find the case of

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the applicant to be so indigent and deserving immediate assistance for relief from financial destitution as compared to the cases which were either approved or kept in the list for reconsideration. A copy of comparative statement is annexed as Annexure R-4 while minutes of the CRC are annexed as Annexure A-7 respectively. The minutes of the CRC clearly state as to the manner in which applicant's case for compassionate appointment was considered and decided upon by the Committee. The number of applicants for compassionate appointment were more than the number of vacancies available against which candidates could be accommodated. Therefore, all such applicants cannot be given compassionate appointment. Compassionate appointments are thus, necessarily to be made on the basis of the comparative financial position and other relevant facts of the candidates. Applicant's case is not the only one that has been rejected by the CRC. There were 16 other applicants beside applicant whose cases have been rejected by the Committee.

6. The following case law has been cited by the respondents to buttress their stand that the applicant's case for appointment on compassionate grounds did not merit consideration:- Ms _____

- (i) Civil Appeal No. 2206/2006 titled Local Administration Department Vs. M. Selvanayagam @ Kumaravelu
- (ii) Umesh Kumar Nagpal Vs. State of Haryana, 1994(4) SCC 138
- (iii) General Manager (D&PB) and others Vs. Kunti Tiwary and anr., 2004(7) SCC 271

7. Rejoinder has been filed on behalf of the respondents reiterating the content of the OA. It has also been stated that the applicant's family is not living in their own house, but they are living in one room in the house of the grandfather of the applicant.

8. When the matter was taken up for hearing, none was present to represent the applicant. In this view of the matter, it was decided to take up the matter for decision invoking Rule 15 of the CAT (Procedure) Rules, 1987.

9. Learned counsel for the respondents stated that the OA was barred by limitation and the applicant's family was living in their ancestral house. The mother of the applicant was getting pension and one daughter was married. Learned counsel stated that number of vacancies available for appointment on compassionate grounds was very limited and the CRC at its meeting held on 06.01.2010 had considered 23 cases, but recommendations could only be made in favour of eight persons keeping in view the number of vacancies available. Hence, there is no merit in this OA.

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10. I have carefully perused the pleadings of the parties, the material on record and the arguments put forth by the learned counsel for the respondents. From the material on record, it is evident that the applicant himself is around 33 years old. One of his sisters is married and the other sister is also over 30 years, although no information is available on record regarding her marital status. The younger brother of the applicant is over 25 years old. The father of the applicant expired in 2006 and since then, the family has been sustaining itself. The application of the applicant for appointment on compassionate grounds was rejected in 2010 and this OA has been filed more than four years later. The Law on the subject of compassionate appointment has come up for consideration before the Hon'ble Supreme Court in catena of cases and the entire law can be broadly summarized as follows:-

- (i) Only dependants of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground in Groups 'C' and 'D' post alone. (**Umesh Nagpal Vs. State of Haryana, J.T. 1994(3) SC 525**).
- (ii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help out to get over the emergency.
- (iii) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased is legally impermissible.

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(iv) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

Moreover, appointment on compassionate grounds can be made only, if a vacancy is available for that purpose (**Himachal Road Transport Corporation Vs., Dinesh Kumar, J.T. 1996(5) SC 319** and **Hindustan Aeronautics Limited Vs. Smt. A. Radhika Thirumalai, J.T. 1996 (9) SC 197**).

11. Since the claim of the applicant for appointment on compassionate grounds was rejected in 2010 on account of lack of adequate number of vacancies to be filled under 5% quota prescribed for such appointment and the family had been sustaining itself since 2006, I am of the view that at this stage, no relief can be granted to the applicant. Hence, this OA is rejected. No costs.

**(RAJWANT SANDHU)
MEMBER(A)**

Dated: 29.5.2015
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