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CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

ORIGINAL APPLICATION NO.060/00365/2014

**Order Reserved on 26.11.2014
Pronounced on 3.12.2014**

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

Panthpreet Singh S/o Late sh. Harcharan Singh aged 24 years, R/O Village & Post Office-Pakka Kalan, District Bathinda.

... Applicant

Versus

1. Union of India through Secretary to Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Post Master General, Punjab Circle, Sandesh Bhawan, Chandigarh-160017.
3. Superintendent of Post Offices, Bathinda Division, Bathinda-151005.

... Respondents

Present: Sh. Jagdeep Jaswal, counsel for the applicant.

Sh. Darshan Gupta, proxy for Ms. Mohinder Gupta, counsel for the respondents.

ORDER

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

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

"8 (i) That the impugned order dated 28.5.2013 (Annexure A-1) may be quashed and set aside being illegal and arbitrary.

(ii) That the action of the respondents in not considering the claim of the applicant in the meeting of the CRC held on 22.9.2011, without citing any reasons therefore,

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be also declared as illegal and arbitrary and the respondents be directed to consider and appoint the applicant on compassionate grounds in accordance with law and policy."

2. Background of the matter is that the mother of the applicant late Smt. Surinder Kaur, who was working in the Respondent department as GDSBPM, Pakka Kalan, died in harness on 10.7.2007, leaving behind her widower and the applicant. Father of the applicant is a handicapped person working as salesman in the office of Red Cross Society, Bathinda earning around Rs.4000 p.m. The applicant who is 10+2 pass applied for appointment on compassionate grounds and his application was forwarded by Respondent No.3 to Respondent No.2 vide letter dated 09.8.2011 (Annexure A-2). It has been claimed in the O.A. that terminal benefit of only Rs.38,000/- was paid as DCRG and after verification it was found that family did not have any landed property or income apart from the salary of the husband of the deceased employee. A meeting of the Circle Relaxation Committee was held on 22.9.2011 but claim of the applicant was not considered as queries had been raised in the matter.

3. Although the meetings of Circle Relaxation Committee are to be held every year, case of the applicant was not considered for the year ending March 2012, March 2013 and it was only considered in

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the meeting held on 10.5.2013. The claim of the applicant for appointment on compassionate grounds was rejected by the Respondent No.3 stating that as per the points earned by the applicant, his case has not been found to be hard and deserving. In the grounds for relief it has been stated that the points had wrongly been allocated to the applicant. Initially calculation was made at 51 points although he was entitled to 53 points and later since case of the applicant was considered in accordance with the revised point assessment, he was awarded only 45 points. Hence this O.A.

4. In the written statement filed on behalf of the respondents facts of the matter have not been disputed. Further, it has been stated that the applicant made claim for his engagement as Gramin Dak Sewak on compassionate grounds initially on 01.10.2009 but due to loss of testimonials etc. from his custody, he preferred second application with duplicate educational certificates on 21.7.2011 and accordingly his case was forwarded to office of Postmaster General, Punjab Region, Chandigarh, on 09.08.2011 for his engagement in terms of Compassionate Engagement Scheme. Thereafter, the case of the applicant was examined in the Regional Office at Chandigarh and certain queries were raised with regard to verification of landed property at his paternal village and want of recommendations of the

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Divisional Head for available vacant post. The same were answered by the Bathinda Division on 26.09.2011. Meanwhile, Circle Relaxation Committee for compassionate engagement of Gramin Dak Sewaks held on 22.09.2011 and the case being deficient could not be considered. However, the same was considered by the Circle Relaxation Committee in its subsequent meeting held on 10.05.2013 along with 26 other cases for engagement as Gramin Dak Sewaks on compassionate grounds. On consideration of the cases as per the guidelines involving examination of laid down aspects i.e. financial position, assets, liabilities, pending marriage, marriage and education liability etc. of the children and other circumstances of the family, allocation of points to various attributes based on the laid down 100 point scale (45 points in the present case), the Circle Relaxation Committee did not find the case of the applicant to be so "hard and deserving" as compared to the cases which were approved in the Committee. A copy of comparative statement and minutes of the Circle Relaxation Committee annexed with the OA (Annexure-6/A) clearly states as to the manner in which applicant's case for compassionate engagement was considered and decided upon by the Committee. It is clear from the minutes that a number of candidates for compassionate engagement scoring below 50 or less than the approved one were not accommodated. Therefore, all such

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candidates were not approved for compassionate engagement. Compassionate engagements are necessarily to be made on the basis of the comparative financial position and other relevant facts of the applicants. Applicant's case was not the only one that had been rejected by the Circle Relaxation Committee, there were 12 other candidates besides the applicant whose cases had been rejected by the committee. The decision of the Committee was conveyed to the applicant vide Supdt. Post Offices, Bathinda Division endorsement letter dated 28.05.2013 (A/1).

5. It has further been stated that appointment on compassionate grounds to dependents of E.D. agents is given only in very ~~had~~ and exceptional cases and the department had vide its letter NO.17-17/2010-GDS dated 14.12.2010 worked out a system of allocation of points to various attributes on a 100-point scale. It prescribes that a balanced and objective assessment of the financial condition of the family has to be made taking into consideration his/her assets and liabilities, and all other relevant factors such as presence of an earning member, size of the family and the essential needs of the family including social obligations etc. in order to assess the degree of indigence of all the applicants to be considered for compassionate

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engagement. Since the applicant got only 45 points on the 100 point scale his case was not approved by Circle Relaxation Committee.

6. No rejoinder has been filed on behalf of the applicant.

7. Arguments advanced by learned counsel for the parties were heard. Learned counsel for the applicant reiterated the facts and grounds taken in the O.A. He stated that the applicant was indeed in indigent condition since his father was earning only a meager amount. Had the applicant's case been considered in September 2011, the applicant who had then been assessed at 51 points would have got the appointment since persons who had more than 50 points were considered for appointment on compassionate grounds at that time. He stated that in 2012, the policy had been changed and weightage of educational qualification had been deleted. Hence points awarded to the applicant were reduced to 45 and his case for appointment was rejected.

8. Learned counsel for the respondents stated that the applicant had initially submitted an incomplete application and it was only when the documentation was complete that the case of the applicant could be considered. Application could only be completed on 26.9.2011, when the requisite report regarding landed property and income were received. Although the meeting of CRC for compassionate

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engagement of GDS was held on 22.9.2011, the incomplete case of the applicant could not be considered. Thereafter, meeting was only held in 2013. At that meeting the case of the applicant was awarded 45 points while last person recommended for appointment scored 61 marks. Hence there was no merit in O.A.

9. I have carefully considered the matter with reference to pleadings of the parties and arguments advanced by learned counsel for the parties. From the material on record, it is seen that it is the applicant himself who delayed filing his complete application for appointment on compassionate grounds. Although his mother expired on 10.7.2007, the applicant filed an incomplete application as late as in October 2009 and the second application with duplicate educational certificates was only filed in July 2011. Verification process took sometime and his case could not be considered in the CRC Meeting held on 22.9.2011. It was subsequently considered in May 2013 when it was rejected as he scored only 45 points.

10. Employment on compassionate grounds is not a matter of right. Law relating to compassionate appointment has recently been aptly summarized in State of Gujarat & Ors. Vs. Arvindkumar T. Tiwari

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& Anr. (2012) 9 SCC 545. The relevant extracts of the this judgment are as under:

“8. It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. A claim to be appointed on such a ground, has to be considered in accordance with the rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased. Such a category of employment itself, is an exception to the constitutional provisions contained in Articles 14 and 16, which provide that there can be no discrimination in public employment. The object of compassionate employment is to enable the family of the deceased to overcome the sudden financial crisis it finds itself facing, and not to confer any status upon it. (Vide: Union of India & Ors. v. Shashank Goswami (2012) 11 SCC 307.

12. The court should therefore, refrain from interfering, unless the appointments so made, or the rejection of a candidature is found to have been done at the cost of “fair play”, “good conscience” and “equity” (Vide: State of J & K v. Shiv Ram Sharma & Ors., (1999) 3 SCC 653 and Praveen Singh v. State of Punjab & Ors., (2000) 8 SCC 633.”

11. In view of the above discussion, it is concluded that there is no merit in this O.A. Hence the same is rejected.

R.S.
(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 3/2/2014.

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