

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1650/2015

New Delhi, this the 5th day of May, 2017

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Rohit Sinha (Age 26 years) (Un-Employed)
S/o Late Shri Uma Shankar Sinha
R/o Quarter No.884, Sector No.VI
R.K. Puram, New Delhi ... Applicant

(Through Shri Sanjay Kumar, Advocate)

Versus

The Chief Post Master General [D/o Post],
Delhi Circle
GPO New Delhi-110001
Ministry of Communication and
Information Technology ... Respondents

(Through Ms. Anupama Bansal, Advocate)

ORDER (Oral)

Mr. P.K. Basu, Member (A)

The father of the applicant Shri Uma Shankar Sinha, appointed as Postal Assistant in the postal department, passed away on 27.01.2009 at the young age of 47 years. He left behind his wife Smt. Shail Sinha and two sons namely Vineet Sinha and Rohit Sinha. The present OA has been filed by Shri Rohit Sinha, who has applied for compassionate appointment. A Committee was constituted for this purpose, which considered the applicant's case.

2. As per rules of compassionate appointment, there are eight criteria on the basis of which points are allotted namely number of dependants, amount of family pension, terminal benefits received, marriageable daughters, number of minor children, income earned from other source, moveable/immoveable property and left over service. In this marking system, the applicant obtained 49 points whereas the last successful candidate got 57 points. Before filing the instant OA, the applicant had earlier filed OA 378/2013, primarily claiming that the points allotted for terminal benefits and for handicapped son have been wrongly determined by the respondents. The Tribunal concluded as follows:

“I am satisfied that the claim of the applicant for employment on compassionate ground has been assessed fairly.”

The Tribunal had examined the grading list of cases for compassionate appointment including the applicant and then came to such conclusion. Finally, the Tribunal directed as follows:

“10. In the circumstances, interference with the impugned order is declined. The Original Application is accordingly dismissed. However, the dismissal of the present Original Application would not stand in the way of the respondent to reconsider the claim of the applicant for appointment on compassionate ground keeping in view the fact that one of the dependents of deceased government employee is handicapped....”

3. The applicant was informed vide letter dated 29.01.2015 that he had obtained 49 points which is below the total points of the last selected candidate who has scored points of indigence as 57 and, therefore, his case had not been recommended for compassionate appointment by the Relaxation Committee. The applicant has now filed the instant OA seeking the following reliefs:

"8.(1) That this Tribunal may kindly set aside the orders of respondent declining the employment to applicant vide notice dated 29.01.2015 and allow this petition thereby directing the respondent to appoint the petitioner in its department on the compassionate ground after considering its ability and qualification at the suitable post."

4. The Tribunal, while dismissing the OA No.378/2013 (supra), had only mentioned that the respondents could consider the claim of the applicant for appointment on compassionate ground keeping in view the fact that one of the dependents of deceased government employee is handicapped.

5. According to the learned counsel for the respondents, in view of the above order of the Tribunal, the only issue which could be decided is whether the applicant deserved 5 more points treating the applicant's elder brother as handicapped. The learned counsel pointed out to Annexure 6, which contains letters dated 23.02.2009, 25.03.2009, 31.05.2010 and 4.06.2010 in which repeatedly the wife of the deceased government servant has been stating that she has two sons, one son is married and her daughter-in-law is a housewife. In none

of these letters, there is a whisper that one son Shri Vineet is suffering from mental disorder, which the applicant has now claimed in this OA. It is, therefore, stated that this additional argument is an afterthought and should be rejected.

6. It was also the contention of the learned counsel for the respondents that the applicant cannot now raise any other issue other than the issue of Shri Vineet being handicapped and suffering from mental disorder. It was urged that in the light of the facts stated by her, the OA deserves to be dismissed.

7. On the question of handicapped child to be treated as a minor, the learned counsel for the applicant placed before us the following judgments:

- (i) **Balbir Kaur and another Vs. Steel Authority of India Ltd. and others**, 2000 AIR (SC) 1596
- (ii) **Kamalammal Vs. Venkatalakshmi Ammal**, 1965 AIR (SC) 1349
- (iii) **Jaswant Singh Vs. Union of India**, 2005 (2) AD 104
- (iv) **Om Prakash Vs. Ministry of Indian Railways through its General Manager and anr.**, 2009 (1) SLJ 216
- (v) **Om Prakash Gupta Vs. Puspa Kumari**, 1969 (1) ILR (Del) 953

8. We find that none of the judgments have given any ruling that a handicapped child has to be treated as a minor. We

requested the learned counsel for the applicant repeatedly to point out in which of these judgments and in what relevant paragraphs the Hon'ble Courts have held that a disabled person has to be treated as a minor child. He failed to do so.

9. In this case, the points allotted for eight attributes to the applicant were as follows:

| Sl.No. | Criteria | Points |
|--------|---------------------------------|--------|
| 1. | Number of dependents | 10 |
| 2. | Amount of family pension | 18 |
| 3. | Terminal benefits received | 0 |
| 4. | Marriageable daughters | 0 |
| 5. | Number of minor children | 0 |
| 6. | Income earned from other source | 5 |
| 7. | Moveable/ Immoveable property | 10 |
| 8. | Left over service | 6 |
| | Total | 49 |

10. In accordance with the letter dated 20.01.2010 of the Department of Posts, the marks for dependents is as follows:

| (e) No. of dependents | Points |
|--------------------------------|--------|
| (i) 3 and above | 15 |
| (ii) 2 | 10 |
| (iii) 1 | 5 |
| (f) No. of unmarried daughters | Points |
| (i) 3 and above | 15 |
| (ii) 2 | 10 |
| (iii) 1 | 5 |
| (iv) None | 0 |
| (g) No. of Minor children | Points |
| (i) 3 and above | 15 |
| (ii) 2 | 10 |

| | |
|----------------------|--------|
| (iii) 1 (iv) None | 5 0 |
|----------------------|--------|

11. Therefore, even if for arguments sake, we treat Shri Vineet as a minor child suffering from mental disorder, the applicant would have secured 5 more marks, which would have taken his points to 54. But, even then, it is less than the last successful candidate who secured 57 points. So the applicant would not have qualified either ways.

12. Learned counsel for the applicant insisted that order dated 7.11.2013 of the Tribunal in OA 378/2013 (supra) permits the applicant to also raise the question of terminal benefits. Our attention was drawn to letter dated 17.03.2015 which is regarding payment of terminal benefits to the applicant on behalf of his late father, which is as follows:

| Sl. No. | Detail of terminal benefits | Amount |
|---------|---|--|
| 1. | Family Pension | @6580+D.A. |
| 2. | D.C.R.G. | 3,53,215.00 |
| 3. | G.P.F. Balances | 7,009.00 |
| 4. | Life Insurance Policy (PLI etc) | Nil (Policy in pending) Not claimed by claimant |
| 5. | C.G.E.G.I.S. | 45,598.00 |
| 6. | Encashment of leave | 55,378.00 |
| 7. | L.T.A. (Other benefits) | 66,814.90 |
| | Total amount of benefits | 5,28,014.90 |
| | Recovery of house Building advance | 3,30,463.00 |
| | Net Payment to Claimant | 1,97,251.90 |

13. It is his case that the respondents have treated the terminal benefits including the House Building Advance (HBA), which was clearly inadmissible. In case, the terminal benefits would have been treated as Rs.1,97,251.90, the applicant would have got nine points instead of 'zero'. However, even if we grant him liberty to raise this issue again, though it has been settled in the earlier OA, as rightly stated by the learned counsel for the respondents, nothing could be more ridiculous than this argument. The terminal benefits of the late father of the applicant was Rs.5,28,014.90 paise and that is what the respondents have considered as his terminal benefits, in which case, as rightly pointed out by the respondents, he gets zero points. There is no question of deducting the HBA of Rs. 3,30,463.00 in order to determine scoring in the compassionate appointment. That deduction has been made because that amount has to be recovered from the applicant from his retiral benefits.

14. It is clear that there is no merit in this OA and the applicant has indulged in a complete wastage of time of this Tribunal as well as the respondents with a huge burden on the public exchequer i.e. tax payers money. Therefore, rightly we should have imposed heavy cost on the applicant but since he comes from the lower strata of the society, we do not pass any order as to costs. The OA is dismissed.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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