

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A No. 060/01435/2017

...
Date of decision- 05.12.2017
...

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

...
Gagandeep Singh S/o Late Baldev Singh,

Resident of VPO Jatpura

The. Raikot,

District Ludhiana, (Group C).

...APPLICANT

BY ADVOCATE: Sh. Saurabh Kapur, Advocate.

VERSUS

1. Union of India
Through Secretary,
Ministry of Communication and Information Technology,
Sanchar Bhawan 20, Ashoka Road,
New Delhi 110001.
2. Chief Post Master General,
Punjab Circle, Sandesh Bhawan,
Sector 17,
Chandigarh-160017.
3. Superintendent,
Post Office, Ludhiana (M) Division,
Ludhiana-141001.
4. Post Master,
Post Office, Jagraon.

...RESPONDENTS

ORDER(ORAL)

SANJEEV KAUSHIK, MEMBER (J):-

The applicant has impugned the minutes of meeting of the Circle Relaxation Committee dated 02.02.2015 and subsequent order dated 23.02.2015 vide which the respondents rejected his case for appointment on compassionate ground.

2. This is second round of litigation. Earlier, the applicant approached this Tribunal by filing O.A No. 060/00662/2016 wherein he impugned the order dated 23.02.2015 (Annexure A-2) where his request for appointment on compassionate ground on demise of his father was rejected. This Court after noticing the contention, rejected his O.A by passing an order dated 28.02.2017. Aggrieved against that order, the applicant approached the Hon'ble jurisdictional High Court for judicial review by filing CWP No. 13678/2017. Which was withdrawn enable him to challenge the minutes of the meeting of the Circle Relaxation Committee (in short "CRC") held on 02.02.2015. Accordingly, vide order dated 03.07.2017, the Hon'ble High Court dismissed the writ petition as withdrawn and liberty was granted to him to take recourse to the remedies as may be available to him, in accordance with law. It is, thereafter, the applicant filed the present O.A impugning the minutes of meeting of CRC held on 02.02.2015 along with order dated 23.02.2015 vide which his candidature has been rejected for appointment on compassionate ground.

3. I have heard learned counsel for the applicant who urged that procedure adopted by the CRC while considering the case of the applicant for appointment on compassionate ground is arbitrary and subsequent order dated 23.02.2015 passed by the respondents rejecting his case based upon the report of the CRC, be also set aside

and quashed. He further prayed that the respondents be directed to reconsider the case of the applicant afresh.

4. I have given my thoughtful consideration to the entire matter and have perused the pleadings as available on record.

5. Earlier to this petition, the applicant approached this Court by filing O.A No. 060/00662/2016 in which he impugned the order dated 23.02.2015 rejecting his case for appointment on compassionate ground. After detailed deliberation, this Court vide order dated 28.02.2017 dismissed his O.A. Relevant paras of order dated 28.02.2017 reads as under:-

"7. Moreover, on merit also the claim of the applicant is not that he is more eligible and better in terms of criteria for giving compassionate appointment. His case is that he is poor and belongs to S.C. category and, therefore, his case should be considered. His other ground is that he has not been communicated the reasons for rejection of his application for compassionate appointment. I do not find these grounds convincing. A perusal of the written statement and Annexures R-1 and R-2 attached with the same, makes it abundantly clear that the applicant's case was considered by the Circle Relaxation Committee against vacancies in Group-C cadre earmarked for compassionate appointment quota and his case was adjudged according to laid down criteria namely the income, marital status, family pension, terminal benefits, monthly income from property, moveable/immovable property, number of dependents, number of minor children, left over service etc. and after evaluating his case he was given 51 marks which was down below in the list because several other candidates have secured much higher marks than him. Annexure R-2 also gives details about the points assigning to various criteria. The applicant has challenged neither of these two.

8. In the light of the above, the applicant's claim that his case has not been dealt with objectively by the respondents as per instructions in this regard is untenable. Being poor or belonging to reserved category cannot be the sole consideration for giving compassionate appointment which is given on the basis of prescribed Rules and Administrative instructions. Compassionate appointment cannot be claimed as a matter of right particularly when the case of the applicant does not meet the requirement of rules and instructions in this regard.

Resultantly, I do not find any merit in this O.A. and the same is accordingly dismissed. No costs."

6. Aggrieved against the view taken by this Tribunal, the applicant went for judicial review before the Hon'ble jurisdictional High Court by filing CWP No. 13678/2017, which was dismissed as withdrawn vide order dated 13.07.2017. A liberty was granted to take recourse to the remedies as may be available to him. Being important, the same reads as under:-

"The challenge in this writ petition filed under Articles 226/227 of the Constitution of India, to the impugned order dated 28.02.2017 (Annexure P-1), passed by the Central Administrative Tribunal, Chandigarh Bench, vide which the application (Annexure P-2) for quashing of order dated 23.02.2015, was dismissed. A further prayer for quashing of order dated 23.02.2015 (Annexure A-1) has also been made.

2. After arguing for sometime, learned counsel for the petitioner submitted that he may be allowed to withdraw the present writ petition with liberty to challenge Annexure R-1 i.e. minutes of the meeting of the Circle Relaxation Committee (CRC), held on 02nd February, 2015, in accordance with law.

3. Dismissed as withdrawn. It shall, however, be open to the petitioner to take recourse to the remedies as may be available to him, in accordance with law."

7. Perusal of above extracted order makes it clear that the Hon'ble jurisdictional High Court has not unsettled the order of this Court vide which earlier O.A was rejected. Only on the statement made by learned counsel for the applicant before the Hon'ble High Court, he was allowed to withdraw the writ petition and was given liberty to take recourse to the remedies as may be available to him in accordance with law. Since the Hon'ble High Court has not set aside the order of this Court dated 28.02.2017 rejecting the petition, therefore, the applicant cannot maintain this petition on the same cause of action without there being a positive direction by the Hon'ble High Court to re-agitate the matter before this Tribunal. In earlier

petition, the applicant impugned the order rejecting his case based upon the CRC recommendations which was not found faulty by this Court or by the Hon'ble High Court. In the present petition, apart from minutes of meeting of CRC, the applicant has also impugned his rejection order dated 23.02.2015 (Annexure A-2) whose validity has already been upheld by this Court and not disturbed by the Hon'ble High Court in writ petition, therefore, in my mind, second petition on the same cause of action is not maintainable. However, the applicant also failed to point out any flaw in awarding the marks by CRC while considering his case for compassionate ground under the scheme. Accordingly, the present O.A is dismissed in limine.

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 05.12.2017

`jk'