

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

...

**OA NO. 290/00183/2015
WITH MA NO. 290/00094/2015**

**THIS, THE 5TH DAY OF
JANUARY, 2018**

...

**CORAM: HON'BLE MR. PRASANNA KUMAR PRADHAN, MEMBER (A)
HON'BLE MR. SURESH KUMAR MONGA, MEMBER(J)**

...

**PUSHPENDRA KUMAR S/O LATE SHRI BOHRA RAM JI, BY CASTE MEGHWAL,
AGED 25 YEARS R/O 216 SOCIETY NAGAR, PALI, TEHSIL PALI, DISTRICT PALI.
LAST POSTING HEAD POST OFFICE, PALI (RAJ.)**

...APPLICANT

BY ADVOCATE : MS. DEEPIKA VYAS

VERSUS

**1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF
COMMUNICATION, DAK BHAWAN, POSTAL DEPARTMENT, NEW DELHI.
2. THE ASSISTANT POSTMASTER GENERAL (S&V), CHIEF POSTMASTER
GENERAL, RAJASTHAN CIRCLE, JAIPUR
3. SUPERINTENDENT OF POST OFFICE, PALI DIVISION.**

....RESPONDENTS

BY ADVOCATE: MR. K.S.YADAV

ORDER (ORAL)

...

PER SURESH KUMAR MONGA:

**MA NO. 290/00094/15 FOR CONDONATION OF DELAY IS
ALLOWED FOR THE REASONS STATED THEREIN. THE DELAY IN FILING THE
OA IS CONDONED.**

**FATHER OF THE APPLICANT, SHRI BOHRA RAM WAS WORKING
AS POSTAL ASSISTANT IN THE RESPONDENT DEPARTMENT. HE EXPIRED
WHILE IN SERVICE ON 4.6.2010 AFTER RENDERING THE SERVICES OF
ABOUT 31 YEARS. AFTER HIS DEATH, THE APPLICANT HEREIN REQUESTED**

THE RESPONDENT DEPARTMENT TO GRANT HIM EMPLOYMENT ON COMPASSIONATE GROUNDS AND SUBMITTED AN APPLICATION TO THIS EFFECT ON 19.07.2010. THE SAID APPLICATION WAS CONSIDERED IN A MEETING OF THE CIRCLE RELAXATION COMMITTEE (CRC) CONSTITUTED IN THE RESPONDENT DEPARTMENT FOR ASSESSING THE RELATIVE SUITABILITY OF THE CANDIDATES SEEKING EMPLOYMENT ON COMPASSIONATE GROUNDS. THE CRC CONSIDERED THE CASE OF THE APPLICANT ALONGWITH OTHER ELIGIBLE CANDIDATES AGAINST 04 VACANCIES OF GROUP-D (MTS) CADRE IN THE YEAR 2010. AT THAT TIME, THE APPLICANT WAS HAVING QUALIFICATION OF 8TH PASS ONLY AND HE WAS NOT EVEN FOUND ELIGIBLE FOR THE POST OF GROUP-D (MTS) CADRE, AS MINIMUM QUALIFICATION FOR THE SAME IS 10TH PASS. ON THE REPORT OF THE CRC, THE CHIEF POSTMASTER GENERAL, RAJASTHAN CIRCLE, JAIPUR PASSED AN ORDER DATED 23.06.2011 DECLINING EMPLOYMENT TO THE APPLICANT ON COMPASSIONATE GROUNDS. THE APPLICANT, WHO WAS PURSUING HIS FURTHER STUDIES, QUALIFIED THE SECONDARY SCHOOL EXAMINATION ON 27.06.2012 AND AFTER OBTAINING THE CERTIFICATE, HE SUBMITTED A REPRESENTATION (ANN.A/7) WITH THE RESPONDENTS AND REQUESTED FOR RECONSIDERATION OF HIS CASE FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS. HOWEVER, THE SAID REPRESENTATION WAS NOT CONSIDERED BY THE RESPONDENTS COMPELLING HIM TO INVOKE THE JURISDICTION OF THIS TRIBUNAL U/S 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985.

2. THE RESPONDENTS BY WAY OF FILING A JOINT REPLY HAVE JOINED THE DEFENCE AND OPPOSED THE CLAIM OF THE APPLICANT, PRIMARILY ON THE GROUND THAT THE APPLICANT WAS NOT ELIGIBLE FOR THE POST OF GROUP-D (MTS) AS HE WAS NOT POSSESSING THE MINIMUM QUALIFICATION, BUT STILL HIS CASE WAS CONSIDERED AS TRAINEE TO THE CADRE UNDER RELAXATION OF NORMAL RECRUITMENT RULES AND SINCE THE CRC DID NOT FIND THE CASE ON THE PARAMETERS OF THE NORMS LAID DOWN BY THE DEPARTMENT, THEREFORE, THE CASE OF THE APPLICANT FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS WAS REJECTED.

3. HEARD THE LEARNED COUNSEL FOR THE PARTIES.

4. THE LEARNED COUNSEL FOR THE APPLICANT ARGUED THAT WHEN THE CASE OF THE APPLICANT WAS CONSIDERED BY THE CRC, HE WAS NOT HAVING THE REQUISITE QUALIFICATION AND AFTER OBTAINING THE REQUISITE QUALIFICATION, HE AGAIN SUBMITTED A REPRESENTATION WHICH WAS NOT CONSIDERED BY THE RESPONDENTS. SHE FURTHER ARGUED THAT THE APPLICANT'S CASE CAN AGAIN BE CONSIDERED AGAINST THE VACANCIES BECOMING AVAILABLE IN THE SUBSEQUENT YEARS, SINCE THE FAMILY IS IN PENURY.

5. PER CONTRA, THE LEARNED COUNSEL FOR THE RESPONDENTS CONTENTED THAT THE CRC WHILE CONSIDERING THE CASE OF THE APPLICANT HAD ASSESSED THE RELATIVE MERIT VIS-À-VIS THE OTHER

CANDIDATES WITH REGARD TO PENURIOUS CONDITIONS OF THE FAMILIES AND SINCE THE APPLICANT DID NOT TOUCH THE BENCH-MARK OF POINTS AS PER THE POLICY GUIDELINES, THEREFORE, THE RESPONDENTS HAVE RIGHTLY REJECTED HIS CASE FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS.

6. CONSIDERED THE RIVAL CONTENTIONS OF THE LEARNED COUNSELS FOR BOTH THE PARTIES AND HAVE PERUSED THE RECORD.

7. ADMITTEDLY, WHEN THE APPLICANT'S CASE WAS CONSIDERED BY THE CRC, HE WAS NOT HAVING THE REQUISITE QUALIFICATION FOR APPOINTMENT AGAINST GROUP-D (MTS) CADRE POST. IN THE YEAR 2010, 04 VACANCIES OF GROUP-D (MTS) CADRE POST WERE AVAILABLE WITHIN THE CEILING OF 5% VACANCIES AND THE CRC DID NOT FIND THE APPLICANT SUITABLE FOR APPOINTMENT AGAINST ANY OF THOSE. HOWEVER, LATER ON, ON ACQUIRING SECONDARY EXAMINATION CERTIFICATE ON 27.6.2012, THE APPLICANT SUBMITTED A REPRESENTATION (ANN.A/7) AND REQUESTED THE RESPONDENTS TO RECONSIDER HIS CASE FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS AS THE FAMILY IS IN PENURY. THE SAID REPRESENTATION HAS NOT BEEN TAKEN UP FOR CONSIDERATION IN ANY OF THE MEETINGS OF CRC CONDUCTED SUBSEQUENTLY FOR CONSIDERATION OF CASES FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS AGAINST VACANCIES BECOMING AVAILABLE IN THOSE YEARS. THE RESPONDENTS, WHILE FILING THEIR REPLY STATEMENT HAVE REMAINED TOTALLY SILENT ABOUT THE SAID REPRESENTATION (ANN.A/7).

8. IN THE FACTS AND CIRCUMSTANCES OF THE CASE, WE ARE OF THE VIEW THAT THE ENDS OF JUSTICE WILL BE MET, IF THE CASE OF THE APPLICANT FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS IS RECONSIDERED BY THE RESPONDENTS, AS AFTER QUALIFYING THE SECONDARY SCHOOL EXAMINATION, HE HAS BECOME ELIGIBLE FOR APPOINTMENT ON A GROUP-D (MTS) CADRE POST.

9. ACCORDINGLY, THE INSTANT OA IS DISPOSED OF WITH A DIRECTION TO THE RESPONDENTS TO RECONSIDER THE CASE OF THE APPLICANT FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS WHILE KEEPING IN VIEW HIS SECONDARY SCHOOL EXAMINATION CERTIFICATE WHICH HE ACQUIRED IN THE YEAR 2012, AND IN CASE HE IS FOUND SUITABLE FOR A GROUP-D (MTS) CADRE POST, THEN APPOINTMENT BE OFFERED TO HIM FORTHWITH. A FURTHER DIRECTION IS ISSUED TO THE RESPONDENTS THAT THE WHOLE EXERCISE SHALL BE UNDERTAKEN WITHIN A PERIOD OF THREE MONTHS FROM THE DATE OF RECEIPT OF A CERTIFIED COPY OF THIS ORDER.

10. ORDERED ACCORDINGLY. THERE SHALL BE NO ORDER AS TO COSTS.

(SURESH KUMAR MONGA)
MEMBER (J)

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

10018315050118290.TXT

R/

1