

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI
CAMP AT NAGPUR**

ORIGINAL APPLICATION No.2046/2015

Dated This The 2nd day of August, 2017

CORAM: HON'BLE SHRI A.J.ROHEE, MEMBER (J)

Prashant Bhaiyyaji Wankhede,

aged about : 33 Yrs.

Occupation : Unemployed,

R/o At. Po. Uparwahi, Tq.

Kalameshwar-441501,

Dist : Nagpur

... Applicant

(By Advocate Shri A.N.Dighore)

Versus.

1. Union of India through its

Secretary,

Department of Post Dak

Bhawan, Sansad Marg,

New Delhi : 110001.

2. The Chief Postmaster General,

Maharashtra Circle,

Mumbai : 400001.

3. The Postmaster General,

Vidarbha Region,

Nagpur-440010.

4. The Sr.Superintendent of

Post Offices, Nagpur

Mofussil Division,

Nagpur-440002.

... Respondents.

(By Advocate Shri R.G.Agrawal)

Reserved on 17.07.2017

Pronounced on 02.08.2017

ORDER

The applicant aggrieved by the impugned orders dt. 13.2.2012 (Annexure-A-1) and 25.6.2013 (Annexure-A-2) on reconsideration of the claim for compassionate appointment by which it was rejected, approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :-

"i) Quash and set aside the impugned communication dt. 13.2.2012 (Annexure-A-1) and communication dt. 25.6.2013 (Annexure-A-2) and further direct the Respondents to consider the case of the applicant favorably to appoint the applicant on compassionate grounds as Gramin Dak Sevak.

ii) Grant any other relief as may deem fit and proper.

iii) Saddle the cost of this O.A. on the Respondents".

2. The applicant's father Late Shri Bhayyaji Daulatrao Wankhede was working as Gramin Dak Sewak Branch Postmaster at Village Uparwahi in Kalameshwar Tehsil of Nagpur District under R-4. While in service, he expired on 14.10.2009 at the age of 63 years and after rendering 30 years, 10 months and 6 days of service. The applicant

qualified graduation in the year 2002. He, therefore, applied for compassionate appointment with the respondents in Group 'C' post on 15.11.2009. His case was referred to the Circle Office in December, 2009. However, by the impugned order dt. 13.2.2012, R-2 informed that his claim was rejected by the Circle Relaxation Committee (for short, CRC) on merit after considering all the relevant factors. The applicant then submitted a representation for re-consideration of the aforesaid decision. However, vide impugned order dt. 25.6.2013 (Annexure-A-2) the R-2 again rejected the representation and informed that there is no change in the decision dt. 13.2.2012 taken by the CRC.

3. The impugned orders have been challenged mainly on the ground that the decision taken by the CRC is improper and it should have been held that the applicant is entitled to the compassionate appointment after death of his father, since family was in indigent condition. The retiral benefits and income from other sources should not have been

taken into consideration to hold that the applicant's case is not fit for being considered for compassionate appointment. According to applicant he should have been awarded 55 merit points as per revised calculation instead of 34 and hence impugned orders are liable to be set aside.

4. Along with O.A., M.P. No.47/2015 is filed for condonation of delay of six months in filing the O.A., as per the date of impugned order dt. 25.6.2013 on the ground that after rejection of his claim on the first occasion he was demoralized and could not come out of the shock. He could not contact his Advocate to seek further advice due to lack of knowledge and poor family situation. Hence, delay is liable to be condoned.

5. On notice, the respondents by a common reply dt. 26.10.2015 resisted the OA by denying all the adverse averments, contentions and grounds raised therein. It is stated that the CRC has followed the prescribed procedure and guidelines and considered the pending proposals and out of it as per Annexure-B, 63 proposals were not

recommended since they were not found fit for immediate monetary assistance being not indigent. The relative merit points as per the guidelines/scheme dt. 14.12.2010 and the revised guidelines dt. 1.8.2011 were allotted to all. There is no scope for interference with the impugned orders. The O.A. is also barred by limitation. The CRC has considered all the aspects of the case, especially considering the fact that substantial retiral benefits were received to the family and that it consists of the applicant and his mother, his married brother who resides with his wife. The O.A. is, therefore, liable to be dismissed, since it has found that the applicant owns the house property and also field property to the extent of 1.5 acres and gets income therefrom.

6. The applicant then filed rejoinder on 12.1.2016 denying the stand taken in the reply and reiterated the grounds stated in the O.A. Copy of the list of candidates recommended by CRC is also filed in addition to revised guidelines.

7. The respondents again filed reply to

rejoinder on 27.10.2016 reiterating the stand taken in the reply and the fact that the merit points were correctly allotted as per guidelines.

8. On 17.7.2017 when the matter was taken up for final hearing during the circuit bench sitting at Nagpur, I have heard Shri A.N.Dighore, learned Advocate for the applicant and the reply arguments of Shri R.G.Agrawal, learned Advocate for the respondents.

9. I have carefully gone through the entire pleadings of the parties and the documents relied upon by them in support of their rival contentions.

FINDING

10. The only controversy involved for decision of this Tribunal is whether the impugned orders are liable to be set aside as illegal, improper or incorrect on the grounds alleged by the applicant.

11. The record shows that adequate grounds are raised by the applicant for condonation of delay of six months in approaching this Tribunal. Although the period of limitation should have been counted from the date of the first impugned order since

cause of action arose at that juncture to approach this Tribunal, however, since representation for reconsideration was made and it was rejected, the delay is liable to be condoned. Even otherwise since claim is for compassionate appointment it is always desirable to decide it on merit instead of rejecting it on technical ground of limitation.

12. The record shows that the CRC in its meeting dt. 20.12.2011 considered the pending proposals and out of it recommended few proposals for compassionate appointment and rejected as many as 29 proposals. The applicant's name is entered at Sl.No.19 in second list and merit points were allotted to him on the basis of number of dependents, number of unmarried daughters, number of school going minor children, left over service, income from house and landed property, number of earning members, amount of terminal benefits received etc. It shows that the applicant was entitled to 34 merit points only out of 100. Hence, it was recommended that case is not hard and deserving and hence not recommended. There is

nothing on record to show that the CRC has recommended any case where individual has secured less than 50 merit points. In such circumstances of the case, it cannot be said that the CRC was wrong in allotting 34 merit points to the applicant, after considering all the relevant factors as per guidelines. Further, it cannot be forgotten that the applicant acquired graduation six years prior to death of his father. He must have been doing some job at the time of death of his father which he has not clarified in the O.A.

13. It is needless to say that compassionate appointment cannot be claimed as of right and the same can be granted only if it is established that the family of the deceased employee needs immediately monetary assistance to save the family from indigent condition. In the present case the CRC has found that the applicant's case is not deserving since the family is receiving monthly pension of Rs.8,833/- and already received terminal benefits of Rs.1,08,175/-. In such circumstances of the case, it cannot be said that the decision

taken by the CRC to reject applicant's claim is in any manner arbitrary, illegal, improper or incorrect.

13. The learned Advocate for the applicant placed reliance on the decision rendered by Hon'ble High Court of Allahabad in **Shri Sudhir Kumar v. The Union of India, through its Secretary**, decided on 11.10.2013 {**2014 (4) ALJ 167**}, and submitted that the applicant is entitled to the claim for compassionate appointment. I have carefully gone through the said decision. The facts are totally different since in that case the Department failed to satisfy itself regarding assets and liabilities left by Government servant and income of family members and liabilities including the fact whether or not such family members resided with family and supported the family. In the present case it is obvious that during inquiry the information on all the above relevant factors was collected and it was placed before the CRC, which has carefully considered it and came to a rational conclusion that the case is not deserving. As such, this

Tribunal cannot take a different view simply relying on the decision relied upon by the applicant.

14. In the result, this Tribunal does not find any merit in the present O.A., which stands dismissed. Parties are, however, directed to bear their respective costs of this O.A.

(Arvind J. Rohee)
Member (Judicial)

B.

