

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
OA/050/00731/17**

Date of Order: 24/07/2018

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER**

Kumar Ankesh, Son of Late Avinash Kumar Sinha, resident of Village- Baghi, ward No. 11, P.S. Nagar, Near Lakhi Medical Hall, Police Station- Mufassil, District- Begusarai, Bihar.

..... Applicant.

- By Advocate: - Mr. R.N. Singh

-Versus-

1. The Union of India through Secretary-cum-Director General, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi- 110001.
2. The Secretary-cum-Director General, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi-110001.
3. The Chief Postmaster General, Bihar Circle, Patna- 800001.
4. The Senior Superintendent, RMS PT Division, Patna- 800001.
5. The Assistant Director (Recruitment), Bihar Circle, Patna- 800001.

..... Respondents.

- By Advocate: - Mr. Ravindra Rai

**ORDER**  
**[ORAL]**

**J.V. Bhairavia, J.M.:-** This OA has been preferred by the applicant against the Order No. R&E-76/2013-05 dated 01.11.2017 issued under the signature of Assistant Director, Posts (Recruitment), Bihar Circle, Patna whereby and whereunder the application made by the applicant for his appointment on compassionate ground has not

been recommended by the Circle Compassionate Committee on the ground that the applicant had secured only 35 merit points.

2. This is the third round of litigation preferred by the applicant. The applicant had earlier approached this Tribunal in OA/050/00276/2015 challenging the order dated 12.01.2015 (Annexure A/2) whereby his case for compassionate appointment was not recommended by the Circle Compassionate Committee, Bihar Circle on the ground of being married. Vide order dated 09.04.2015 (Annexure A/4) this Tribunal set aside the said order dated 12.01.2015 with direction to the respondent authorities to consider the claim of the applicant in the next Circle Relaxation Committee (CRC) meeting. The said order was forwarded by the applicant on 15.06.2015. When no action was taken the applicant preferred CP No. 48 of 2016 for compliance of the order dated 09.04.2015 passed in OA 276 of 2015. However, the respondents vide order dated 08.02.2016 (Annexure A/6) rejected the claim of the applicant on the ground that he had secured only 30 merit points. Then the Tribunal dropped the said CP 48 of 2016 vide order dated 30.03.2017 (Annexure A/7) treating the order dated 08.02.2016 as substantial compliance of the Tribunal's order. The applicant again approached this Tribunal in OA/050/00311/2017 assailing the order dated 08.02.2016 passed by the respondents and urged that he should have been awarded 42 merit points instead of 30 merit points. The Tribunal vide order dated 19.05.2017 (Annexure A/9) disposed of the said OA with direction to the applicant to

approach the appropriate authority putting his grievance with regard to grant of more merit points than what was awarded to him. The applicant then made a detailed representation before the respondent no. 5 on 14.07.2017 (Annexure A/10) requesting therein to award 42 merit points to him and to consider his case for compassionate appointment. Thereafter, the respondents issued letter dated 04.08.2017 informing the applicant that his case would be placed before the next CRC to be held in the year 2017 against the available vacancies for the year 2016-17 earmarked for compassionate appointment. The impugned order dated 01.11.2017 was issued thereafter rejecting his case for compassionate appointment on the ground that he had secured only 35 marks. Hence, this OA.

3. The main plea of the applicant is that respondents have awarded only 10 points under the Column 'number of dependents' whereas the applicant is entitled for 15 points and 2 points under the column 'left over service' whereas the applicant was entitled for 4 points since his father had died more than 5 years before his retirement. It is thus contended by the applicant that he ought to have been awarded 42 merit points instead of 35 merit points.

4. The respondents in their written statement have submitted that in compliance of the Tribunal's order dated 09.04.2015 the case of the applicant was re-considered by the CRC in its meeting held on 22.01.2016 and on the basis of

information/documents made available by the applicant, the CRC awarded 30 merit points only as detailed below:-

(a) Family pension – Rs. 7325/-	:	18 points
(b) Terminal benefits- Rs. 7,23,997/-	:	00 points
(c) Monthly income of earning members and income from property- NIL	:	05 points
(d) Moveable/Immoveable property- Rs. 16 lakhs:		00 points
(e) No. of dependents- Widow – 01, Son and daughter:		05 points
(f) No. of unmarried daughter- NIL :		00 points
(g) No. of Minor children- NIL :		00 points
(h) Left over service – 04 years 4 months and 09 days:		02 points

**Total : 30 points**

5. The respondents have further submitted that there were 11 vacancies for the year 2014 earmarked for compassionate appointment and out of 37 cases placed before the CRC only such cases were recommended by the CRC which earned 60 points and above. Since the applicant could earn only 30 points he was not recommended by the CRC. The decision was communicated to the applicant vide order dated 08.02.2016. The matter was again examined in the light of Tribunal's order dated 19.05.2017 in OA 311/2017. It was found that as per rule there were only two dependent family members in the family and accordingly the case was again placed before the CRC in its meeting held on 24.10.2017 and he was awarded 10 points under the head "dependent family members and altogether his case could earn 35 points and not recommended as the last recommendation was made on 55 points against 13 vacancies earmarked for the year 2016-17. It is also submitted all other merit points were given carefully after thoroughly

examining all the details. The respondents have also submitted that compassionate appointment is not a matter of right and its object is to provide immediate assistance to the family of the Govt. servant in order to relieve it from economic distress. As more than 6 years have elapsed from the date of death of the deceased and the very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependent means of subsistence. Accordingly, they have prayed for dismissal of the OA.

6. I have heard the parties and perused the records carefully. It reveals from the record that in fact after death of father of the applicant in the year 2010 the case of the applicant for appointment on compassionate ground has been considered thrice by the respondents. However, the applicant could not meet with the requirement of minimum cut off point with respect to the actual vacancies for the purpose of appointment on compassionate ground and his case was not recommended for it. Since the appointment on compassionate ground admittedly comes under the domain of the respondents, they are the best judge to decide about the cut off merit point as per the total vacancies available for that particular year and also instructions/guidelines issued from time to time under the policy for appointment on compassionate ground. It is also noticed that the respondents had considered and examined the case of the applicant thoroughly for the purpose of grant of merit point in different heads and, accordingly, the CRC had awarded 10 points under the heading "dependent family members" by considering only two dependent members in the family. The claim of the applicant

that he should have been awarded 4 points instead of 2 points against column (L), i.e. points for left over service of the deceased as his father had more than 05 years of service left was also examined by the concerned Committee and in this regard the respondents have explained that the deceased was born on 05.04.1955 and as per the date of birth he might have retired on 03.05.2015, but he died on 22.12.2010. From this fact it can be seen that the deceased had left over of service for 4 years, 4 months and 12 days, and, therefore, become eligible to receive only 2 merit points. Accordingly, 2 merit points were awarded under the said heading by the Committee. It is thus seen that altogether the applicant could earn 35 merit points only. However, as the last recommendation was made on 55 merit points against 13 vacancies for the year 2016-17 the case of the applicant was not recommended. On examination of the impugned decision dated 1.11.2017, it is found that the case of the applicant was considered in compliance of the order of this Tribunal in the earlier OA as per policy for compassionate appointment in vogue. The said decision cannot be said to be contrary to the policy of respondents for appointment on compassionate ground.

7. In view of the above, I do not find any reason to interfere with the said decision of the respondents. The OA is, accordingly, dismissed. No order as to costs.

**[ Jayesh V. Bhairavia ]**  
**Judicial Member**

**srk**