

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**

**O.A. No.050/00257/2017**

Reserved on: 21.08.2018

Date of Order:24.09.2018

**C O R A M**  
**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER**

1. Bhola Prasad, aged about 30 years, S/o late Lala Prasad Resident of Village & PO- Nabinagar, Distt.- Aurangabad, Pin code- 824301.

..... Applicants.

By Advocate : Shri N.N. Singh

-Versus-

1. Union of India through the Secretary, Department of Posts, Dak Bhawan, New Delhi-110001.
2. The D.G. Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
3. The Chief Postmaster General, Bihar Circle, Patna-800001.
4. The Superintendent of Post Offices, Aurangabad Division, Aurangabad-431001.
5. The Asstt. Director (Rectt) O/o Chief PMG Bihar, Patna-800001.

..... Respondents.

By Advocate(s) :- Shri Bhuneshwar Pandey.

**O R D E R**

**Per Mr. Jayesh V. Bhairavia, M (J)** :- The Applicants in this O.A is aggrieved by the order passed by respondent no.3 i.e Chief Postmaster General, Bihar Circle, Patna-800001 issued vide memo no. R&E-76/2015-16 dated 16.01.2017 (Annexure A/1) by which his application for appointment on compassionate ground has been rejected, as such, he prays for quashing and

setting aside the same and to reconsider his claim for appointment of compassionate ground.

2. The brief facts of the case as submitted by the applicant is as below :-

2.1 The applicant has submitted that the father of applicant i.e late Lala Prasad died on 07.10.2015 leaving behind his wife, two sons and one unmarried daughter while he was in active service as a Postman at Nabinagar Post Office of Aurangabad District. The family members were totally dependent on said late Lala Prasad.

2.2. After the death of late Lala Prasad, the mother of applicant sponsored the name of Shri Bola Prasad (i.e. applicant herein) for his appointment on compassionate ground. However, the same was rejected on ground that the case of applicant obtained lesser points i.e only 44 points and the candidates who obtained 64 points were considered for appointment under compassionate quota.

2.3 As per the applicant, he should be awarded at least 55 points instead of 44 points. The detail of points awarded to applicant by the respondents and the claimed points by the applicant are stated as under:-

		Score Allotted	To be allotted
1	If the wife is applicant	00	00
2	No. of Dependent of deceased	10	15 (W, 2sons, 1 Daughter)
3	Number of unmarried daughters	05	05
4	No. of minor children	00	00
5	Family Pension	18	18
6	Terminal Benefit	00	<b>02</b>
7	House & Landed Property	08	08
8	Left over service	02	02
9	Monthly Income of family	01	<b>05</b>
	Total	44	55

2.3 The applicant claims that he is entitled to be awarded total at least 55 points instead of 54 points as stated in the above details. Therefore, after receipt of the impugned order the applicant had submitted his representations to the respondent no. 3 through respondent no.4 as well as another representation directly before the respondent no.3 on 30/31.01.2017 (Annexure A/3 series refers) which elicited no response. Therefore, the applicants have no other option except to prefer this O.A.

2.4 The learned counsel for the applicant submitted that the respondents have not submitted accurate position of data of the applicant before the CRC for fair assessment and grant of proper point which resulted in grant of lesser points. Therefore, the case of the applicant is required to be re-considered by the next meeting of CRC. It is further

submitted that the dependents are in penury condition and having no means of livelihood. Therefore, the claim of the applicant required to be re-considered for appointment on compassionate grounds.

3. The respondents in their written statement denied the statements made by the applicant in his O.A and have submitted as below:-

3.1 That, Late Lal Prasad, Ex-Postman, Nabi Nagar, S.O. Aurangabad Division died on 07.10.2015 leaving behind wife and two married sons and one daughter. After the death of the ex-official, the wife of the deceased sponsored her first son Sri Bhola Prasad for appointment on compassionate ground. Shri Bhola Prasad is matriculate and his date of birth is 08.02.1987. The learned counsel for respondents further submitted that the left over service of the ex-employee was 04 years, 09 months and 24 days and the family of deceased was paid Rs.4,62,721/- as Gratuity, Rs.2,82,950/- as leave encashment. The family of deceased is being paid Rs.6345/- + PR per month as family pension. The I/c for respondents also submitted that the family of deceased has own Kacha House and a piece of land (agricultural) having area 0.018 Acre and Rs. 60,000/- is annual income from other sources.

3.2 The I/c for respondents further submitted that the case of applicant was placed before the CRC in its meeting held in 2017 and due to lesser point (44 points) his case was not recommended. He further submitted that only 16 vacancies were earmarked for the year 2015-16 for compassionate appointment and only those who earned 64 points or above, their cases were recommended.

3.3 It is further submitted by the respondents that the applicant was informed vide letter dated 16.01.2017 that his case has been rejected. The learned counsel further submitted that as per the parameter fixed by the department no point can be awarded against the terminal benefits where the family has been paid an amount above than Rs.4,20,001/-. The I/c for respondents further submitted that only widow and unmarried daughter is dependent of the deceased hence 10 points were awarded under the head of "dependent of family members". The two sons of the deceased are of more than 25 years of age hence they cannot be treated as dependent of the deceased employee. He further submitted that the compassionate appointment is not matter of right and the applicant is misleading the court. Applicant is well aware

that his case did not secure points enough for appointment on compassionate ground therefore has no leg to stand hence, this OA may be rejected.

4. The applicant has filed rejoinder to the written statement reiterating his earlier submissions and further submitted that the statement made in para 10 of written statement is violative to the ratio laid down by the Hon'ble Apex Court in case of Balbir Kumar V Ans. Steel Authority of India Ltd & Ors (2006)6 SCC 493. The Hon'ble Apex Court in para 13 held that :-

*"Para 13 – But in our view this family Benefit Scheme can not in any way be equated with the benefit of compassionate appointment. The sudden jert in the family by reason of the death of the bread earner can only be absorbed by some lump-sum at amount being made available to the family- this is rather unfortunate but this is reality. The feeling of security drops to zero on the death of the bread earner and insecurity there after reigns and it is at that juncture is some lump sum amout is made available with a compassionate appointment. The grief stricken family may find some solace to the mental agony and manage its affair in the normal course of events. It is not that monetary bnefit would be replacement of the bread earner but that would undoubtedly bring some solace to the situation".*

By relying upon the above judgment the learned counsel for the applicant submitted that the contention of the respondents with respect to para 10 of W.S. is not consistent and contrary to the law laid down by Hon'ble Apex Court. He further submitted that there is no specific provision that any son and daughter aged about 25 years may not be treated as dependent family members. It is further contended that a family cannot survive on the agricultural land of 0.018 Acre, in absence of sole bread

earner with eleven members of family. The applicant relied upon a judgment/order passed by this Tribunal dated 09<sup>th</sup> April 2018 in O.A 291/2018 whereby the O.A was disposed of at admission stage itself with direction to respondents to reconsider the case of applicant.

5. Heard the parties and perused the records and considered their submissions.

6. In the present case, to consider 16 vacancies earmarked for the year 2015-16 for appointment on compassionate grounds the respondents had conveyed the CRC meeting wherein the application of the applicant was examined and 44 points were awarded to the applicant which was below the cut off 64 merit points. Therefore, the case of the applicant was not recommended for appointment on compassionate grounds. The said decision was communicated to the applicant vide impugned order dated 16.01.2017 (Annexure A/1). It is noticed that as against the said decision the applicant had submitted his representation and contended that he is entitled for more merit points and erroneously awarded less points. The said representation dated 30.01.2017 (Annexure A/3 series) remained unanswered. It is also noticed that the father of applicant died in harness and accordingly the dependents of Late Lala Prasad became entitled to claim appointment on compassionate grounds for any of the members. Considering the materials on record and the contention raised by the applicant the case of the

applicant is required to be considered afresh with regard to merit point by the next CRC for the purpose of appointment on compassionate grounds. Accordingly, the matter is remitted back to the respondents for fresh consideration for appointment on compassionate grounds preferably within six months from the date of receipt of this order.

7. In view of above direction, the OA is disposed of. No order as to costs.

[ Jayesh V. Bhairavia ]  
Member ( J )

mks/srk