

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.528/2017 with MA No.483/2017

This the 28th day of March, 2019

Shri Nileshkumar Ashokkumar Vidyarthi
N.A. Vidyarthi, Age 30 years
S/o. Late Shri Ashokkumar R. Vidyarthi
Ex. Group-D, Postal Dispensary, Vadodara
Resident of 318 Sadar Bazar, Nr. Saibaba Temple
Fateganj, Vadodara 390 002. Applicant

(By Advocate : Shri M.B.Navani)

VERSUS

1. Union of India,
Through the Secretary/ DG
Department of Post, Dak Bhavan, Parliament Street
New Delhi 110 001.
2. The Chief Postmaster General
Gujarat Circle, Ahmedabad 380 001.
3. The Sr. Supdt.of Post Offices
Vadodara (West) Division,
Vadodara 390 002. Respondents

(By Advocate : Ms. R.R.Patel)

O R D E R – ORAL

Per : Hon'ble Shri M.C.Verma, Member (J)

Being aggrieved by non giving him appointment on compassionate ground by the respondents, instant OA has been preferred by applicant, Shri Nileshkumar Ashokkumar Vidyarthi. It has been pleaded in the OA that father of the applicant, who was working as Group 'D' in Postal Dispensary at Vadodara expired on 27.02.2013, due to heart attack, while was on duty, that deceased left behind him his wife and five children. That mother and elder brother were overage and were not having requisite qualification, that applicant preferred an application, on 24.01.2014, for appointment on compassionate ground. That case of the applicant was put up before Circle Relaxation Committee, which holding that applicant is having house worth Rs. ten lakh rejected his case .That this fact that applicant is having house worth Rs ten lakh is not correct. That vide impugned order dated 15.6.2016, the applicant was informed that his case was not recommended for appointment on compassionate ground. That on rejection of his application by Circle Relaxation Committee, applicant preferred application dated 21.5.2016 to Chief Postmaster General for reconsideration of his case and has also preferred

another, dated 19.5.2017 to Chief Postmaster General on the same subject and when nothing positive yielded he preferred this OA.

2. Respondents have filed their written statement pleading that case of applicant was considered twice by CRC (Circle Relaxation Committee) once on 10.5.2016 and second time on 20.02.2018 but each time for the reason that only 5% limited vacancy for compassionate appointment were there, he could not be recommended by CRC. It has also been pleaded that it is manipulated fact that value of the house is Rs. 95,000/-.

3. Impugned order, Annexure A-1 of instant OA reveals that Circle Relaxation Committee held on 10.5.2016 have rejected the application preferred by the applicant for appointment on compassionate ground. Matter is at the stage of admission. Without going into merit of the matter at the threshold it is significant to note that Scheme for compassionate appointment supplied by the respondents is at Annexure R-4 which runs from pages 72 to 88 of the OA. Record provides the objection/ eligibility authority competent to make compassionate appointment and procedure to be adopted therein.

4. As per O.M. No.14014/6/94-Estt(D) dated 09.10.1998 Revised consolidated instructions, **on Subject: *Scheme for compassionate appointment under the Central Government,*** were sent to all

Ministries/Department of Government of India. It has been stated therein that the existing instructions for making compassionate appointment under the Central Government have since been reviewed in the light of the various court judgments and other decisions including those taken on the various recommendations contained in the Fifth Central Pay Commission Report as well as the Study Report of 1990 and 1994 prepared by the Department of Administrative Reforms and Public Grievances on the subject and they have accordingly been revised/simplified and consolidated as in the enclosed scheme which will supersede all the existing instructions on the subject and that this may be brought to the notice of all concerned for information, guidance and necessary action.

5. The object of the enclosed scheme of aforesaid O.A., dated 09.10.1998, as is evident from the Scheme itself is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency. Para 2 of the Scheme provides about the persons to whom this scheme is

applicable, meant to say the family members dependent on government servant/member of the Armed Forces, at the time of his death in harness or retirement on medical grounds, as the case may be.

6. The Scheme also speaks as to who shall be competent Authority to make compensate appointment and stipulates that the authority competent to make compassionate appointment is: **(a) Joint Secretary in-charge of administration in the Ministry/Department concerned.**

(b) Head of the Department under the Supplementary Rule 2(10) in the case of attached and subordinate offices. (c) Secretary in the Ministry / Department concerned in special types of cases.

7. At internal page 7 of the Scheme speaks about the procedure to be followed for considering and taking decision to make compassionate appointment. It is evident from the Scheme that the decision to make or to refuse compassionate appointment must be that of competent Authority or of next higher authority and it is obvious from clause (d) which stipulates: “ **(d) Recommendation of the committee should be placed before the competent authority for a decision. If the competent authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision.**”

8. The impugned order reveals that it is only the Recommendation of the Circle High Power Committee constituted for Compassionate ground appointment, the Circle High Power Committee does not recommend the CGA case of the applicant. It is evident from the Scheme that the decision to make or to refuse compassionate appointment must be that of competent Authority or of next higher authority. As per the Scheme it is the competent authority to take a decision and while taking the decision it may agrees or disagrees with the committee's recommendation, but in every case, it should be of his decision. In instant case matter appears not to have been put before the competent authority for taking decision.

9. For the reasons stated above the matter needs remitting back with direction to the respondents to place the same before competent authority to consider/reconsidering the case of applicant as per rules and said competent authority shall pass a reasoned and speaking order without further delay.

10. Before parting it is significant to note that the fact that no decision was taken for years together cannot operate to disadvantage of the dependent of the deceased employee. Contention of the applicant taken in OA to be taken note of but when undersigned already has found that matter needs remitting back so it will be a futile exercise to enter into all

this aspect and better will it be to leave the same for consideration by competent authority while taking decision.

11. In view of legal and factual scenario, discussed above the matter is remanded back to the respondents with direction to place the same before competent authority to consider/ reconsider the case of applicant rationally, as per rules and to pass a reasoned and speaking order within a period of one month from the date of receipt of copy of this order.

12. The O.A stand disposed off. In view of disposal of OA, MA No. 483/2017 also stands disposed off. No order as to cost.

**(M.C.Verma)
Member (J)**

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