

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Original Application No. 330/01512/2016

Dated: This the 11th day of April 2019.

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Mahendra Kumar Nayak S/o Late Bhagwat Naraian, Ex-G.D.S (M.D.)
Ghughuva (Barua Sagar), Resident of Village & Post Ghughuva Barua
Sagar, District Jhansi.

. . . Applicant

By Adv: Shri A.P. Pandey

V E R S U S

1. Union of India through Secretary, Ministry of Tele communication
Dak Bhawan, New Delhi.
2. Post Master General Agra Division, Agra 282001.
3. Assistant Director (Recruitment) office of the Chief Post Master
General U.P. Zone, Lucknow 226001.
4. Senior Superintendent of Post Office, Jhansi, Division Jhansi.

. . . Respondents

By Adv: Shri G.K. Tripathi

O R D E R

1. The present O.A. has been filed by applicant Mahendra Kumar Nayak under section 19 of Administrative Tribunal Act, 1985 seeking the following reliefs:

"(a) to quash and set aside the order impugned dated Nil/07/2016 issued by the office of respondent department.

- (b) To direct the respondents department to reconsider the case of applicant for grant of appointment on compassionate ground under the dying-in-harness rules within stipulated period, which may be specified by this Hon'ble Tribunal.
- (c) To issue any other or direction, which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (d) To award the cost of the application to the applicant".

2. Case of applicant is that on death of his father Bhagwat Narain in harness on 12.10.2013 while serving in the respondent-department Gramin Dak Sevak Mail Deliver (GDSMD), applicant filed an application for appointment on compassionate grounds and being directed by respondents, applicant submitted his educational qualification certificate. However, application was rejected by the respondents by way of impugned order dated 14.01.2015 (Annexure A1) on the ground that applicant having Madhyama certificate is not eligible for appointment on compassionate grounds.

3. Applicant has specifically averred in the O.A. that the Madhyama certificate is a recognised certificate as below:

"4.9 That the sole question raised in the impugned order that since the applicant has furnished the Madhyama pass certificate for appointment which alleged to have been not permissible for consideration in view of the directorate letter No. 17-39/6/2012/G.D.S. dated 14.01.2015, hence no appointment can be offered on compassionate ground under the dying-in-harness rules. In fact the Madhyama certificate of the applicant issued from the Board of Secondary Sanskrit Education Parishad U.P. which is recognized Board as per Gazettee Notification issued from

the State Government of U.P. in which the institution as Board of Sanskrit Education U.P. has been notified as serial No.3 which established the recognition of Board itself.

4.10 That in fact the recognition was given by the Vice-Chancellor of Sanpurnanand Sanskrit Vishava Vidhyalay Varanasi vide its letter No. G.0355/1699/61-86 dated 27.05.1986 whereby it has been categorically stated that **egkn; mi ;Dr fo'k; d vki ds i=k; 123 fnukd 08-05-86 ds I UntZ ea I fpr fd; k tkrk g\$fd vki ds fo?k; y; dks ek/; ek rd LFk; h ekU; rk i k;r gA** Meaning thereby there is permanent recognition in favour of the institution namely Board of Secondary Sanskrit Siksha Parishad which can be utilized for government job treating the valid certificate equivalent to the High School Certificate issued by the U.P. Board.

4.11 That another letter had also issued on 30.10.2001 to all the District Inspector of Schools of Uttar Pradesh as well as Uttarakhand State apprising therein that the certificate of Prathama, Purv Madhyama and Uttar Madhyama must be treated as equivalent as Junior High School, High School and Intermediate Examination of U.P Board. It has been further clarified in the aforesaid letter that since the aforesaid examination were earlier conducted by the Sanpurnanand Sanskrit Vishava Vidhyalay Varanasi, now the same is being conducted by the newly constituted Examination Institution namely Madhyamik Sanskrit Siksha Parishad, Lucknow, hence there is no difference as the certificates are being issued from the Sanpurnanand Sanskrit Vishava Vidhyalay Varanasi, which is recognized board government of U.P.

4.12 That a letter dated 19.08.2014 has already been issued from the office of District Inspector of School Jhansi whereby categorically stated that Purv Madhyama passed

candidate have full recognition to get admission for higher education in view of the Government letter No. 384/15-07-2014-1 (92)/2012 dated 12.03.2014 by which the relevant rule had already been elaborated in this regard, hence the appointment of the applicant cannot be ignored on the false reasons mentioned in the impugned order".

4. Respondents in Para No. 9 of their counter affidavit have clearly stated that the Madhyama Certificate is not permissible in the compassionate appointment and candidate who has passed 10th exam from recognised board in the family may apply for appointment on compassionate basis and this is based on letters (Annexure CA-6 and 7). Paragraph 9 of the counter affidavit reads as under:

"9. That thereafter a letter No. ~~Hkrh@, e&8@65@2016@2 fnukd~~ @07@2016 received from Circle Office Lucknow in which clearly mentioned that as per Directorate letter No. 17-39/6/2012-GDS dated 14.01.2015 (Annexure NO. CA-7) Madhyama certificate is not permissible in the compassionate appointment and also mentioned that if any other candidate, who passed class 10th exam from recognized board in the family and willing to work in the department may apply".

5. I have heard and considered the arguments of the learned counsels for the parties and gone through their respective pleadings. Both the learned counsels have reiterated the pleas raised by them in their pleadings.

6. O.A. No. 1184/2016 titled Umesh Chandra v/s Union of India was filed on similar facts and disposed of vide order dated 11.11.2016 by CAT, Allahabad (Read with advantage the order in O.A.). I

propose to dispose of the present O.A. on the basis of the directions given in the said O.A.

7. Accordingly, O.A is disposed of with a direction to the applicant to file a fresh representation along with all the relevant documents within 7 days from today and the competent authority in the respondents-department is directed to decide the same taking into consideration the observations made in O.A. No. 1184/2016 titled Umesh Chandra v/s Union of India disposed of vide order dated 11.11.2016 by CAT, Allahabad within a period of one month from the date of receipt of a copy of fresh representation along with certified of this Order. It is made clear that nothing has been commented upon merits of the case. No order as to cost.

(Rakesh Sagar Jain)
Member (J)

Manish/-