

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00205/2016Date of Order:- 23.10.2018**C O R A M**

HON'BLE MR. K.N.SHRIVASTAVA, MEMBER (ADMN.)

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

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Dinesh Kumar Mahatha, S/o late Ayodhya Nath Mahato, aged about 29 + years, resident of Saharjori, PO & PS-Galgatad Chandhakyari, District-Bokaro. ....Applicant.

By Advocate:- Mr. M.A.Khan.

Vs.

1. Union of India through Directorate General Postal, Department of Postal, New Delhi-100 001.
2. Chief Post Master General, Postal Department, Jharkhand Circle, PO-Hinoo, PS-Doranda, District-Ranchi-834 002.
3. Sr. Superintendent of Post Offices, Postal Department, Dhanbad Division, District-Dhanbad-826 001. ..Respondents.

By Advocate:- Mr. H.K.Mehta, Sr. Standing Counsel.

**O R D E R (ORAL)**

**Per K.N.Shrivastava, Member (Admn.) :-** The applicant's father, late Ayodhya Nath Mahto, died in harness on 14.11.2005 when he was posted as Sub-Postmaster, Chandankyari Sub-Post Office, Bokaro. The applicant had applied for compassionate appointment. The respondents Postal Department have laid down

guidelines and parameters for consideration of compassionate appointment cases. They have prescribed a point awarding system under different parameters. According to this system, a case for compassionate appointment is assessed under the following parameters:-

Sl.No.	Parameters	Points
(i)	Number of dependents	5 points for each.
(ii)	Unmarried daughters	10 points for each.
(iii)	Minor children	10 points for each.
(iv)	Years of service left	1 point for each year.
(v)	Landed property	20 points for landless and 10 points on less than 1 acre.
(vi)	Financial condition	20 points for terminal benefits and annual income less than Rs.2 lakhs; 10 points for terminal benefits and annual income upto Rs.3 lakhs.
(vii)	Earning member	Minus (-) 25 points for an earning member.

2. The applicant's case for compassionate appointment was considered by the Circle Relaxation Committee (CRC) in its meeting held on 02.05.2008 against the vacancies for the years 2006 & 2007. As per the records there were 7 & 9 vacancies available for the years 2006 & 2007 respectively against which 18 & 24 cases

respectively were considered by the CRC. The applicant had secured 61 points under the given parameters. The last recommended candidate had secured 71 marks. As a consequence thereof, the applicant's case was not recommended.

3. The contention of the applicant is that his case has not been correctly examined and assessed by the CRC in its meeting held on 02.05.2008. It is stated that the applicant had been given zero point under the head "Unmarried daughters" and only 10 points under the head "Minor children". It is stated that the applicant had submitted Genealogy certificate dated 22.12.2005 issued by the Anchal Adhikari, Chandankyari in which it is clearly indicated that the applicant's younger brother Shri Trilochan Kumar was 13 years old and his younger sister Belu Kumari was 16 years old at that time. Therefore, under the head "Minor Children", the applicant ought to have been awarded  $10 \times 2 = 20$  points, whereas he has been awarded only 10 points. Likewise, under the head "Unmarried daughters" he has been given zero point, whereas he ought to have been awarded  $10 \times 1 = 10$  points. It is thus, contended that the applicant ought to have been given 81 points, against 61 awarded to him, and if this correction is done, the

applicant would have crossed the threshold of 71 points and ought to have been recommended by the CRC for compassionate appointment.

4. The respondents in their counter reply have only indicated as to how the case of the applicant was assessed and considered by the CRC in its meeting held on 02.05.2008. They have not controverted the contention of the applicant in regard to his getting higher points for the heads “minor children” and “Unmarried daughters”.

5. The rejection of the candidature of the applicant for the compassionate appointment on the basis of the recommendation of the CRC was communicated to him by the respondents vide letter dated 27.05.2008. The applicant challenged the rejection letter before the Hon’ble Jharkhand High Court in WP(S) No. 1027/09 which was allowed to be withdrawn by the Hon’ble High Court vide order dated 10.01.2014 (Annexure-A/7).

6. Apparently, the applicant submitted an application to the Hon’ble Prime Minister which was forwarded to the Postal Department and in response to the same, the Sr. Supdt. Of Post Offices, Dhanbad Division, Dhanbad vide letter dated 17.02.2015

(Annexure-A/9) called upon the applicant to appear before him with all the relevant papers relating to his claim for the compassionate appointment. Thereafter, the Chief Postmaster General, Jharkhand Circle vide impugned letter dated 08.02.2016 (Annexure-A/10) informed the applicant that his case had already been considered on the basis of the recommendation of the CRC meeting held on 02.05.2008 and had been rejected.

7. Aggrieved by Annexure-A/10 letter dated 08.02.2016, the applicant has approached this Tribunal praying for the following reliefs:-

*“8(i) To quash the order dated 08.02.2016 (Annexure-A/10) issued by respondent no.3.*

*(ii) To direct the respondents to consider the case of the applicant or to place the case before CRC for the benefit of compassionate appointment in lieu of death of his father on 14.11.2005.”*

8. Pursuant to the notices issued, the respondents have entered appearance and filed their written statement in which they have given the details relating to consideration of the applicant's case by the CRC in its meeting held on 02.05.2008 as well as that of the guidelines for consideration of the cases for compassionate appointment. The issue raised by the applicant

with regard to awarding him lesser points under the heads “Unmarried daughters” and “minor children”, the respondents have not furnished any categorical explanation. During the course of the argument today the learned counsel for the respondents, Mr. H.K.Mehta, however, raised a legal point. He submitted that the applicant’s case for compassionate appointment was rejected way back in the year 2008 itself and a communication to that effect was sent to him by the respondent no.3 vide letter dated 27.05.2008. He stated that although the applicant had approached the Jharkhand High Court in WP(S) No. 1027 of 2009 challenging this letter of rejection, but while allowing the withdrawal of the writ petition by the Jharkhand High Court vide order dated 10.01.2014, no liberty was granted to him by the Hon’ble High Court. He further stated that the applicant has not given any cogent explanation for the inordinate delay in approaching the Tribunal in the instant OA.

9. Mr. M.A.Khan, learned counsel for the applicant, on the other hand, submitted that the applicant had challenged the Annexure-A/5 order dated 27.05.2008 before the Hon’ble Jharkhand High Court well in time but after realising that he should

have first approached the Tribunal, he decided to withdraw the writ petition. He further submitted that the conclusive rejection of his case was made known to the applicant by the respondents only vide letter dated 08.02.2016 and immediately thereafter he approached the Tribunal in the instant OA.

10. We have considered argument of learned counsel for the parties and have also gone through the pleadings. From the records it is quite apparent that the applicant's case has not been correctly assessed by the CRC in its meeting held on 02.05.2008 under the two heads namely, "Minor children" and "Unmarried daughters". The records would indicate that at the relevant point of time the applicant had two minor siblings, namely, his younger brother and younger sister who were then 13 & 16 years of age respectively and, therefore, he was entitled for getting  $10 \times 2 = 20$  points under the head "minor children". Likewise, under the head "Unmarried daughter" the applicant should have been awarded  $10 \times 1 = 10$  points for his unmarried sister Belu Kumari. Thus, it would appear that his case has not been properly assessed by the CRC in its meeting held on 02.05.2008.

11. In view of the above, we dispose of this OA by remanding the matter to respondent no.2 with a direction to hold a review CRC meeting of the CRC meeting held on 02.05.2008 and re-examine the case of the applicant in accordance with the laid down parameters/guidelines in the light of the observations made in para 10 (supra). If the applicant crosses the threshold point prescribed, then his case shall be considered for compassionate appointment against the vacancy of subsequent years. This shall be done within a period of three months from the date of receipt of a copy of this order.

Sd/-  
(Jayesh V.Bhairavia)  
Member (Judl.)

Sd/-  
(K.N.Shrivastava)  
Member (Admn.)

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