

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00104/2017Date of Order:- 29 -Nov-2018**C O R A M**

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

HON'BLE MR. B.V.SUDHAKAR, MEMBER (ADMN.)

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Nagendra Kumar, S/o Late Sahdeo Thakur, aged 28 years, resident at village Khojpura, PO-Paibigha-804424, PS-Makhdumpur, Distt.-Jahanabad, Bihar.

.....Applicant.By Advocate:- Mr. Rajendra Prasad

Vs.

1. Union of India through Secretary (Posts) and Chairman, Postal Service Board, Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. The Chief Postmaster General, Jharkhand Circle, PO & PS-Doranda, Ranchi-834 002.
3. The Director, Postal Services, Jharkhand Circle, PO & PS-Doranda, Ranchi-834 002.
4. The Asstt. Director of Postal Services (Personnel), Jharkhand Circle, PO & PS-Doranda, Ranchi-834 002.
5. The Superintendent, Railway Mail Service, DH Division, Dhanbad, PO & PS-Dhanbad-826 001.Respondents.

By Advocate:- Mr. H.K.Mehta, Sr. Standing Counsel.**O R D E R****Per B.V.Sudhakar, Member (Admn.):**

2. The OA is filed for not considering the applicant to be appointed on compassionate grounds vide Ir dt 23.5.2017 of the Respondents.

3. Brief facts of the case are that the applicant's father while working as MTS in the Respondents Organisation has died on 1.10.2014. The applicant's application for compassionate appointment was rejected by the CRC which met on 18.8.2016 on the grounds that the applicant secured only 63 points out of 115 points whereas the last candidate selected got 64 out of 115 points in the PA/SA cadre. The applicant represented on 17.1.2017 to the 2nd Respondent to consider his claim in view of his distressful economic plight. Through an RTI query the applicant came to know that an applicant who scored 62 points was selected by the CRC which met on 6.4.2017 on compassionate grounds. Despite applicant representing to consider his candidature on 17.1.2017 the Respondents selecting a candidate with less marks of 62 points is irregular and against rules and hence the present OA has been filed.

4. The contentions of the applicant are that a candidate with lower points of 62 was selected by the CRC which met on 6.4.2017. Though applicant's representation dt 17.1.2017 was delivered by speed post on 20.1.2017 and yet the Respondents claiming that they have not received the same is incorrect. The applicant having got higher marks of 63 he

is entitled for appointment. As the Respondents claimed that the Representation dt 17.1.2017 was not received, the applicant submitted another Representation dt 23.5.2017. In response the Respondents informed that his case was already considered and hence it cannot be reconsidered. The applicant alleges that the Respondents violated the relevant rules and also acted against the provisions of Article 14 of the constitution.

5. Respondents in their defence contend that the case of the applicant was considered in the CRC which met on 18.8.2016 to fill up the vacancy for the year 2015-16. The applicant got 63 points whereas the cut off point for selection to PA/SA, postman & MTS was 64, 85 & 87 respectively. As the applicant got lesser marks he could not be selected for any cadre. The applicant request to consider his case in the subsequent CRC was rejected since it was already considered and negated earlier on 18.8.2016.

6. Heard the learned counsel and perused the documents on record. The Id. counsel argued based on the written submission made by them.

7. Compassionate recruitment is being done based on the points secured by the candidates under consideration. It is not disputed that the applicant has secured 63 points which was less than the cut off point for the year 2015-16 and hence not picked up under compassionate appointment. The applicant claimed that a candidate with lesser points of 62 was selected for the vacancies of 2016-17. The learned counsel for the applicant drew the attention of this Tribunal to serial 26 of O.M dt 30.5.2013 where in it was stated that in case the application for compassionate recruitment could not be considered in the current year it can be considered for the next recruitment without any time limit. We agree with the argument of the Id counsel for the applicant. In the present case the applicant was considered for compassionate recruitment for the year 2015 -16 and rejected. Hence the clause quoted by the counsel for the applicant does not come to the rescue of the applicant since the said clause states that his case can be considered for the next year only if he was not considered for the current year. Consequently the Respondents action in not considering his request for the year 2016-17 is in order. Therefore the contention of the applicant that a candidate with lower

marks than him was selected in 2016-17 is not relevant. Further, the argument of the learned counsel that the case of the applicant should be considered for compassionate recruitment for the subsequent year, if stretched would mean that the request of the applicant should be continuously considered till he is selected. This argument lacks logic since everyone has to be given a fair opportunity as the number of vacancies is restricted to 5% of the direct recruitment Group C quota of the concerned year. Hence once the case is considered and rejected it cannot be reconsidered. The action of the Respondents is as per norms. Hence there are no valid grounds to intervene on behalf of the applicant and provide the relief sought. Therefore the OA is dismissed with no order to costs.

(B.V.Sudhakar)
Member (Admn.)

(Jayesh V.Bhairavia)
Member (Judl.)

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