

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT BENCH, RANCHI
OA/051/00190/17**

Date of order: 17.12.2018

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Atul Kumar, S/o Late Shaligram Mandal, aged 38 years, resident of Village-Kachhariya, PO- Budhuchak, via Mathurapur- 813222, PS- Kahalgaon, District- Bhagalpur, Bihar.

..... Applicant.

- By Advocate: - Mr. Rajendra Prasad

-Versus-

1. The Union of India through the Secretary (Posts) & Chairman, Postal Service Board, Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Chief Postmaster General, Jharkhand Circle, PO & PS - Doranda, Ranchi- 834002.
3. The Director Postal Service, Jharkhand Circle, PO & PS- Doranda, Ranchi- 834002.
4. The Asstt. Director of Postal Services (Personnel), Jharkhand Circle, PO & PS- Doranda, Ranchi- 834002.
5. The Sr. Superintendent of Post Offices, Santhal Pargana Division, PO & PS- Dumka-814101.

..... Respondents.

By Advocate: - Mrs. Babita Bharti, ASC

**O R D E R
[ORAL]**

Per Mr. J. V. Bhairavia, J.M.:- In the present case, it is noticed that as per direction issued by this Tribunal vide order dated 09.11.2015 (Annexure A/4) in OA/051/00096/14 along with MA/051/00126/14 filed by the applicant the respondents vide the impugned order dated 07.09.2016

(Annexure A/1) considered the claim of the applicant for appointment on compassionate grounds and the same has been regretted.

2. It is noticed that earlier vide letter dated 07.10.2013 the respondents had not considered the claim of the applicant for appointment on compassionate ground because he was found to be the married son of the deceased employee. The applicant filed OA/051/00096/14 and raised the issue that as per the relevant circular of the Department dated 09.10.2013 the applicant though he is married but required to be treated as dependent of deceased employee and therefore requested this Tribunal for issuance of direction for reconsideration of his case as it is clear that he is fulfilling other requirements and eligibility criteria. Based on the aforesaid fact, this Tribunal vide its order dated 09.11.2015 directed the respondents to consider the case of the applicant in the light of latest circular of Government of India, Ministry of Communication, IT Department of Posts dated 14.01.2015. According to the said circular, the married son can also be considered for compassionate appointment provided he was dependent on the parents for his livelihood. Accordingly, the respondents have considered the case of the applicant and as noted hereinabove regretted the same vide their decision dated 07.09.2016 (Annexure A/1). It is stated in the said communication/decision that the case of the applicant was considered by the Circle Relaxation Committee (CRC in short), Jharkhand Circle for the vacancy year 2015-16 in the light of norms prescribed by the Postal Directorate, New Delhi vide its various letters with regard to consideration of the claim of appointment on compassionate ground and on examination of the case of the applicant under various guidelines as referred he had secured 46 points out of 115 points, whereas the last

selected candidate in PA/SA, Postal and MTS cadre is 64/115, 85/115 and 86/115 had secured points respectively. Hence, his case could not be recommended by the CRC for appointment.

3. The main grievance of the applicant in the present OA is that after receipt of the said impugned decision the applicant had submitted a representation before the respondents with a request to consider his case as per the policy in vogue in the year 1996-97 as his father died in harness on 28.09.1996 and he had submitted his first application in the year 1997 when the Bihar Circular was in force. However, his case remained pending for consideration and subsequently when the Jharkhand circular came into existence, he was asked to submit another application. Accordingly, he had submitted another application. However, as the applicant was married further consideration of his application was not done by the respondents and therefore, he approached the Tribunal by way of OA/051/00096/2014 against the respondents' decision dated 07.10.2013. Under the circumstances, if the case of the applicant had been considered as per the policy in vogue in 1997 the applicant ought to have received more than 70 points. Therefore, it is the submission of the learned counsel for the applicant that his various representations pending before the respondent authorities after the impugned decision, i.e. 07.09.2016 are required to be considered by the respondents and appropriate direction be issued to the respondents for consideration of his case.

4. On the other hand, the learned counsel for the respondents Mrs. Babita Bharti appears and submitted that the respondents have filed their written statement and denied the contention of the applicant. It is contended that in response to the direction issued by this Tribunal vide

order dated 09.11.2015 the case of the applicant was considered in accordance with rules in vogue for appointment on compassionate grounds. It was found that the applicant had obtained only 46 points, whereas similarly claimant, i.e. dependent of deceased employee had received more points. Therefore, since the applicant had received less points his case was not recommended. The said decision cannot be faulted. The submission of the applicant that his case is required to be considered as per the policy of the year 1996-97 is also contrary to the facts of the present case. As per the applicant's own request in the year 2013 initially his case was considered and regretted on the ground that the applicant was the married son. He had approached this Tribunal against the said decision and was satisfied with the order passed by this Tribunal to reconsider his case as per the guidelines and more particularly eligibility of the married son for compassionate appointment. Accordingly, direction was issued by this Tribunal for re-consideration. The case of the applicant was placed before the CRC and the same was considered in accordance with guidelines in vogue for compassionate appointment. The applicant does not possess any vested right for the above appointment. The father of the applicant died in the year 1996. The applicant had submitted his case for further consideration in the year 2013 and as referred hereinabove the same was considered as per the existing policy for compassionate appointment in vogue. Therefore, there is no substance in the claim of the applicant and thus the applicant is not entitled for any relief.

5. I have heard the learned counsel for the parties and perused the materials on record. It is noticed that it is not in dispute that the father of the applicant died in the year 1996. Subsequently, due to bifurcation of the

circle, the applicant's case was put before the Jharkhand Circle from the Bihar Circle in the year 2013 and the applicant has accepted the request of the respondents for submission of his application for compassionate appointment and accordingly, he had submitted his second application in the year 2013. However, the CRC was initially of the opinion that married son is not entitled/eligible for compassionate ground appointment. As noted hereinabove, the OA filed by the applicant in the year 2014, i.e. OA/051/00096/2014 was allowed and direction was issued to the respondents that as per the Government notification and circular issued by the Postal Department the married son is also required to be treated as eligible for his claim with regard to compassionate appointment. Accordingly, the respondents have re-considered the case as per the policy in vogue in the year 2016 and only 46 out of 115 points was received by the applicant which is less than the last cut off merit point. Therefore, the case was regretted vide the impugned order. The submission of the learned counsel for the applicant that if his case had been considered by the respondents on the basis of the policy existed in the year 1997 he could have earned 78 points. The said submission of the applicant is not tenable for the reason that the applicant had approached this Tribunal in the year 2013-14 against the first decision of the respondents, i.e. dated 07.10.2013 and subsequently this Tribunal had directed the respondents to reconsider the case of the applicant vide order dated 09.11.2015 which was accepted by the applicant. Accordingly, the respondents have considered the case of the applicant in accordance with the policy in vogue for compassionate appointment at the time of consideration of his name in the year 2015 and that too as per the direction of this Tribunal. Therefore, it is not open for

the applicant to claim that the respondents have considered the case of the applicant on incorrect or non-existing policy for compassionate ground appointment. In fact, it is noticed that the respondents have considered the case of the applicant in accordance with the policy in vogue. As such, I do not find any infirmity in the said decision of the respondents. Hence, the OA is dismissed.

[Jayesh V. Bhairavia]/M[J]

Srk.