

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD

This the 09th day of July 2019

ORIGINAL APPLICATION NO. 330/00830 OF 2017

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

Suraj Pratap S/o Late Rajendra Singh, aged about 26 years, R/o Village & Post Gohavar Hallu, District Bijnor.

..... Applicant

By Advocate: Sri O. P Gupta

Versus

1. Union of India through Secretary, Ministry of Telecommunication, Govt. of India, Department of Posts, Dak Bhawan, New Delhi.
2. Superintendent of Post Offices, Bijnor Division Bijnor (246701).
3. Chief Post Master General, U.P. Circle, Lucknow.

..... Respondents.

Advocate: Sri Prabash Pandey

ORDER

1. The present O.A. has been filed by applicant Suraj Pratap under Section 19 of the Administrative Tribunal Act seeking the following reliefs:

- "(i) To quash rejection order dated 24.4.2017 (A-1) and
- (ii) To direct the respondents to consider the applicant again for compassionate appointment in accordance with the existing rules and procedure as early as possible and if he is found suitable, he may be appointed immediately.

Any other order or direction which may be fit under the circumstances of present case may also be passed".

- 2 Applicant's case is that on the death of his father Rajendra Singh on 29.08.2015, while serving in the respondent-department, leaving behind a wife, two sons Kuldip Pratap and Suraj Prakash and daughter Remish, he filed an application for appointment on compassionate ground which was rejected by respondents vide impugned order dated 24.04.2017 (Annexure No. A1). It is the case of applicant that weightage points of 22 given to applicant have not been correctly assessed and he is entitled to 60 points, as per, the point system dated 17.12.2015. As per the applicant, the weightage point has been replaced by New Policy Decision dated 30.05.2017, as such, the present O.A. to set aside the impugned order and direct the respondents to consider the claim of applicant for appointment on compassionate ground.
3. In the counter affidavit, it has been averred that the applicant had secured 22 weightage points which is below the minimum point of 36 to be scored by an applicant, as per, the Scheme governing appointments on compassionate ground in the respondent-department, as such, applicant was not entitled for consideration of his case for compassionate appointment and rightly rejected by the respondents.
4. I have heard and considered the arguments of the learned counsels for parties and gone through the material on record.
5. Looking to the stand of the parties coming out in their pleadings and arguments, I am of the view that the impugned order is to be set aside for the reason that as per OM and law laid down by Hon'ble High Court, Allahabad, case of an applicant is to be considered for three consecutive years.

6. Indubitably, in the present case the application filed by the applicant was considered on one occasion only by the respondents. I may refer to the observation of the Hon'ble High Court of Allahabad in Special Appeal No.916 of 2009 titled Food Corporation of India Vs. Hari Ram decided on 31.5.2018 wherein the Hon'ble High Court has held that :-

"We have gone through the O.M. and find, when a candidate is not offered appointment, his name is carried forward for next year since quota is only 5 percent for compassionate appointment out of direct recruitment quota. A fresh review of financial status of family is taken and then again, for next year same exercise is repeated. We find it difficult to convince ourselves with any such analogy that such exercise should continue till appointment is given. There has to have some ceiling at some point of time and we find that two reviews in case of a candidate are genuine, reasonable and if a candidate's financial status is found to be sound or that he has been denied appointment due to non availability of vacancy and has survived, then such candidate cannot be continued in the wait list for unlimited period or for longer than a reasonable period, What should be a reasonable period, it is for the Department or Employer to decide as a matter of policy. Considering entire policy of compassionate appointment in question we do not find any such thing which may be said to be vesting A, an arbitrary discretions. Court normally does not interfere with a policy decision unless probably it is arbitrary to hold that ceiling limit of three years provided/prescribed by department concerned is unreasonable or arbitrary is difficult to accept. Whether offer of appointment in the category of compassionate appointment shall be carried forward for three years or more is well within the domain of

policy making body of concerned Department/ Corporation. Besides, we do not find circular/policy in any manner irrational."

"We may consider it from this angle as well that O.M. which has been placed before us and which is quoted herein above, that department itself has been considerate enough in case of compassionate appointment by bringing in enhancement of time limit from one year to three years. In totality of scheme, we find that there is nothing wrong or arbitrary and irrational in the instructions as contained in the scheme."

7. Based on the OMs and the law laid down by the Hon'ble High Court in the case of FCI (supra), it is clear that respondents are bound to consider the case of an applicant for compassionate appointment for two more consecutive years, therefore, the application is to be considered for three consecutive years in total. In the present case it is nobody's case that the case of applicant was considered on more than one occasion only. Applicant has also challenged the impugned order on the ground that the weightage points have not been correctly calculated by the respondents.
8. Therefore, irrespective of the fact that the application was considered and rejected, it was obligatory upon the respondents to consider the application for two more consecutive years, which however, the respondents failed to do so. In the facts and circumstances of the case, it is clear that the respondents failed to discharge their duty to consider the application for two more consecutive years. Accordingly, the case is remitted back to the respondents to consider the case of the applicant for two more consecutive years as per the OMs and the policy of the respondents -department and dispose of the matter by way of reasoned and speaking orders with intimation to the applicant. Applicant would be liberty to file representation with respondent

No. 2 as to in what manner, the weightage points have been miscalculated within a period of ten days from today. OA is accordingly disposed off. No order as to costs.

(Rakesh Sagar Jain)

Member-J

Manish/-