

Reasoned

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00378/2016

Jabalpur, this Wednesday, the 26th day of June, 2019

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Pradeep Kumar Pandey
S/o Late Shri M.L. Pandey
Aged about 33 years,
R/o Village Berama
Tehsil Maihar, District Satna (M.P.)

-Applicant

(By Advocate –**Shri Dharmesh Chaturvedi**)

V e r s u s

1. Union of India
Through Secretary
Department of Post Office,
Indian Post and Telegraph Department,
Ministry of Communication
Dak Bhawan New Delhi PIN 110001

2. Director Chief Post Master General
Circle Bhopal Dak Bhawan Hoshangabad Road
District Bhopal (M.P.) 462012

3. Post Master General (Mail Service)
J.B. Mandal, Jabalpur (M.P.)

4. Assistant Post Master General (Staff)
M.P. Circle Bhopal (M.P.)

5. Superintendent Rail Mail Service
J.B. Circle Jabalpur (M.P.)

-Respondents

(By Advocate –**Shri S.P. Singh**)

ORDER

This Original Application has been filed by the applicant challenging the impugned order dated 07.05.2015 and 27.07.2015 (Annexure A/9 and A/10) by which the application of applicant for appointment on compassionate basis was rejected.

2. The applicant has sought for the following reliefs:-

“8(i) Hon’ble Court may kindly be pleased to quash impugned order dated 07.05.2015 and 27.07.2015 (Annexure A/9 and A/10) further passed an order to grant compassionate appointment to the applicant.

8(ii) Hon’ble Court may kindly be pleased to grant any other relief which this Hon’ble Court may deem fit along with compensation for interval period of unemployment, in the interest of justice.”

3. Precisely the case of the applicant is that the applicant is son of deceased employee Late Shri M.L. Pandey who was working as Mail man under the respondents department and died during service period on 19.12.2012. Copy of death certificate dated 30.12.2012 is annexed as Annexure A/1. The applicant submitted his

application on compassionate ground along with documents. Copy of which is annexed as Annexure A/2.

4. The respondent-department has sought information from the applicant regarding his candidature for appointment either wife of deceased or applicant himself for further proceedings and asked a requisite documents to furnish. Copy of order dated 04.02.2013 is annexed as Annexure A/3. The applicant has furnished all requisite information and documents of qualification, no objection /consent letter of his mother which are annexed as Annexure A/4. The respondent No.5 has again sent letter to the applicant for submitted documents of valuation of property, certificate of income issued by Tehsildar, which the applicant has submitted to the respondents on 27.09.2013 (Annexure A/6). The respondent No.5 has again sent reminder dated 22.01.2014 to submit documents and certificate issued by competent authority. The same was submitted by the applicant to respondent No.5. The respondents have again issued letter dated 01.01.2014

informing applicant to forward his letter before Circle Relaxation Committee for consideration of his case for compassionate appointment. Copy of letter dated 01.01.2015 is annexed as Annexure A/8.

5. The respondents vide letter dated 07.05.2015 communicated to the applicant about the decision of Circle Relaxation Committee dated 28.04.2015 that the applicant has not found more indigent then other candidates against 5% of reserve post against the direct recruitment were available and as such the claim of the applicant was rejected vide impugned order dated 07.05.2015 (Annexure A/9). The applicant again made representation for his appointment and considering him on indigent but respondent No.5 has sent his letter dated 27.07.2015 and communicated the decision of circle relaxation committee against to the applicant. Copy of letter dated 27.07.2015 is annexed as Annexure A/10.

6. The main ground for challenging the impugned order is that the father of the applicant had died during service

period due to prolong illness on 19.12.2012 and as per compassionate appointment policy the applicant is fully eligible for compassionate appointment. Further ground is that the respondents have rejected the claim of the applicant for appointment on compassionate ground without assigning any reason but has only communicated by stating that applicant is no more indigent then other candidates and has not made clear about the criteria to award points. Moreover, the applicant is very poor and he has old age mother and unemployed younger brother burden of case and maintenance is on the applicant and he has no sufficient sources of income. Furthermore, similar situated candidates are enjoying benefits of policy whereas the applicant was discriminated.

7. The respondents have filed their reply. In the preliminary submission the replying respondents has submitted that the Circle Relaxation Committee has examined the cases of compassionate appointment keeping in view the guidelines issued in the matter as per Ministry

of Personnel, Public Grievances and Pension, Department of Personnel Training OM dated 09.10.1998 and guidelines issued from to time. The CRC considered the case of the compassionate appointment by a balanced and objective assessment of the financial condition of the family taking into consideration its assets and liabilities and all other relevant factors such as the presence of earning member, size of the family, ages of the children and the essential needs of the family etc. This is done to assess the degree of indigence among all the applications considered for compassionate appointment. Merits of the cases are decided by allocating points to candidates based on various attributes and on 100 points scale.

8. The CRC assess the degree of indigence amongst all the candidates considered. Similarly the CRC also keeps in view about the vacancies meant for compassionate appointments which are restricted to 5% of direct recruitment quota. There were 42 applications received for compassionate appointment against 11 vacancies meant for

compassionate appointment under 5% direct recruitment quota. The case of the applicant was considered by the CRC in its meeting dated 28.04.2015 along with other cases. Marks were allotted as per DOP letter dated 20.01.2010 under various attributes. The applicant could score 31 points as detailed in comparative chart (Annexure R/2). The last candidate recommended for compassionate appointment scored 53 points. Due to limited number of vacancy and more deserving cases the applicant could not be offered compassionate appointment. Copy of CRC minutes dated 28.04.2015 and comparative chart assessing merit points of all candidates is filed as Annexure R/2 and R/3 respectively. It has been further submitted by the replying respondents that the appointment on compassionate ground cannot be source of recruitment. The deceased family has been paid terminal benefits Rs.610787/- the widow of deceased employee is getting family pension Rs.5660/- + Dearness Relief at admissible rates per month. There is no unmarried daughter or

dependent sons left in the family of deceased. In addition, the family is having their own house and in receipt of Rs.35000/- per annum as income from the agriculture as per certificate issued by the Tehsildar Maihar, District Satna. The family of deceased employee has agricultural land valued Rs.7,22,700/- as per certificate dated 17.01.12014 issued by the Deputy Registrar Satna.

9. The applicant has filed the rejoinder to the reply filed by the respondents and has reiterated the stand taken in the Original Application. It has been submitted by the applicant that the respondents have not clearly mentioned as how many vacancies were available for year 2013 to 2014 and how many applications were received for every year and against the available vacancy in particular here and against the merit as per point awarded, how many applicants were appointed therefore directions and criteria fixed by respondents is not fair therefore, the matter of applicant for compassionate appointment is liable to be considered for vacancy available in next year.

10. The respondents have filed additional reply to the rejoinder filed by the applicant. It has been submitted by the replying respondents that the applicant was duly informed by the respondents on 01.01.2015 that his case will be placed before CRC meeting. Accordingly the case of the applicant was placed before CRC meeting held on 28.04.2015. Copy of information dated 01.01.2015 is annexed as Annexure AR/1. The case of the applicant along with other cases were considered by the CRC in its meeting dated 28.04.2015 for appointment against the vacancies of the year 2014 and not against the vacancies of the year 2013 as claimed by applicant. Even in the CRC held on 09.04.2015 for the vacancies of the year 2013, the cut off marks for selection was 53 points and the marks scored by the applicant are 31 marks. Thereby the case of the applicant was not eligible due to limited number of vacancies and more deserving candidates.

11. I have heard the learned counsel for both the parties and perused the pleadings and documents annexed with the O.A.

12. From the pleadings itself it is clear that the father of the applicant was working under respondent department and died during service on 19.12.2012 and the application for compassionate appointment was submitted by the applicant as per Annexure A/2. It is also admitted fact that as per order dated 04.02.2013, the respondent department has asked the applicant to furnish all requisite information and documents. The applicant has furnished the information of valuation of property, certificate of income issued by Tehsildar, which the applicant has submitted to the respondents on 27.09.2013 (Annexure A/6). It is an admitted fact that the respondent No.5 has again sent reminder dated 22.01.2014 to submit documents and certificate issued by competent authority, which was submitted by the applicant. Resultantly, the respondent-department vide letter dated 01.01.2014 has informed the

applicant that the matter of the applicant has been forwarded to Circle Relaxation Committee for consideration of his case for compassionate appointment. The contention of the applicant is that selection committee has informed the applicant that the applicant has not found more indigent than other candidates against 5% of reserve post against the direct recruitment quota which were available.

13. The respondents have filed their reply and has specifically submitted that the Circle Relaxation Committee has examined the cases of compassionate appointment keeping in view the guidelines issued in the matter as per Ministry of Personnel, Public Grievances and Pension, Department of Personnel Training OM dated 09.10.1998 and guidelines issued from to time. The CRC has considered the case of the compassionate appointment by a balanced and objective assessment of the financial condition of the family and has also considered its assets and liabilities and all other relevant factors such as the

presence of earning member, size of the family, ages of the children and the essential needs of the family etc. and the degree of indigence among all the applications were considered for compassionate appointment. Furthermore, merits of the cases are decided by allocating points to candidates based on various attributes and on 100 points scale.

14. The respondent department has specifically submitted that the degree of indigence amongst all the candidates were considered keeping in view about the vacancies meant for compassionate appointments which are restricted to 5% of direct recruitment quota and in the instant case there were 42 applications received for compassionate appointment against 11 vacancies meant for compassionate appointment under 5% direct recruitment quota. The meeting of CRC was held on 28.04.2015 along with other cases, the applicant has scored only 31 points as detailed in comparative chart (Annexure R/3). The last candidate recommended for compassionate appointment

scored 53 points. Due to limited number of vacancy and more deserving cases the applicant could not be offered compassionate appointment. The minutes of CRC meeting dated 28.04.2015 and comparative chart assessing merit points of all candidates is filed as Annexure R/2 and R/3 respectively. It has been specifically indicated by the respondent-department that the deceased family has been paid terminal benefits Rs.610787/- and the widow of deceased employee is getting family pension Rs.5660/- + Dearness Relief at admissible rates per month as there is no unmarried daughter or dependent sons left in the family of deceased. In addition, the family is having their own house and in receipt of Rs.35000/- per annum as income from the agriculture as per certificate issued by the Tehsildar Maihar, District Satna. Moreover, the family of deceased employee has agricultural land valued Rs.7,22,700/- as per certificate dated 17.01.12014 issued by the Deputy Registrar Satna.

15. Though the applicant has filed the rejoinder indicating that the vacancies available for 2013-14 was not clearly mentioned and the criteria for dealing with the merit points were also not indicated. But in additional reply filed by the replying respondents it is clear that CRC meeting was held on 28.04.2015 and the applicant was informed vide letter dated 01.01.2015 (Annexure AR/1). It has been specifically submitted by the replying respondents that the meeting dated 28.04.2015 was held for appointment against the vacancies of the year 2014. It has been specifically submitted by the respondents that CRC meeting held on 09.04.2015 for the vacancies of the year 2013 and the cut off marks for selection was 53 points and the marks scored by the applicant are 31 marks.

16. It is settled law that the appointment for compassionate appointment is not a right and should be considered as per guidelines which is complete code in itself. From the reply of the respondent department that it is crystal clear that the respondent-department has

followed the guidelines issued by the Ministry of Personnel, Public Grievances and Pension, Department of Personnel Training OM dated 09.10.1998 and also considered the case by a balanced and objective assessment of the financial condition of the family and has also considered its assets and liabilities and all other relevant factors such as the presence of earning member, size of the family, ages of the children and the essential needs of the family etc. Furthermore, merits of the cases are decided by allocating points to candidates based on various attributes and on 100 points scale. Admittedly there were 42 applications received against 11 vacancies for compassionate appointment under 5% direct recruitment quota and the case of the applicant was considered by the CRC in its meeting dated 28.04.2015 along with other cases. The applicant has scored 31 points which is clear from the comparative chart (Annexure R/3). It is also clear that the last candidate recommended for compassionate appointment has scored 53 points. The

counsel for the applicant has not challenged the criteria itself. There is no whisper of words regarding the wrong point allotted to the applicant. So, the action of the respondents cannot be doubted in any manner.

17. In view of the above, I am of the view that there is no ambiguity and illegality in the action of the respondents for rejecting the case of the applicant.

18. Resultantly this Original Application is dismissed.
No costs.

(Ramesh Singh Thakur)
Judicial Member

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