

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No. 290/00267/2018

Reserved on : 27.08.2019
Pronounced on : 06.09.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

Ashok Bhati s/o Late Sh. Sayara Ram ji, b/c Harijan, aged 35 years, r/o Pori, Vill. Kaghmala, Teh. Raniwara, Zila Jalore.

...Applicant

(By Advocate: Shri K.K.Shah)

Versus

1. Union of India through the Secretary, Ministry of Communications, Department of Posts, New Delhi.
2. The Chief Post Master General, Office of Chief Post Master General, Rajasthan Circle, Jaipur
3. The Post Master General, Rajasthan Western Region, Jodhpur
4. The Director, Postal Services, Rajasthan Western Region, Jodhpur.
5. The Superintendent, Head Post Office, Sirohi.

...Respondents

(By Advocate: Mr. K.S.Yadav)

ORDER

The applicant in the present Original Application is aggrieved by the impugned order dated 07.08.2018 (Ann.A/1) which was issued in compliance of the order dated 8.5.2018 passed in OA No.492/2015. He has prayed

that the impugned order dated 07.08.2018 may be quashed and set-aside and the respondents may be directed to consider the candidature of the applicant for compassionate appointment.

2. The applicant earlier filed OA No.492/2015 aggrieved by the impugned communication dated 18.3.2009 by which application for compassionate appointment had been summarily rejected without disclosing any reasons. The said OA was disposed of vide order dated 8.5.2018 with the following observations:-

"..... Merely stating that his case was rejected by the Circle Relaxation Committee on the basis of status of family, earning member, income, liabilities, assets etc. would not make it a speaking order in the absence of disclosure as to the number of available posts for compassionate appointment in the relevant year, number of posts filled and how the financial condition of the family of the applicant had been assessed relative to other claimants. We are, therefore, of the view that the ends of justice would met in this case, if the respondents are directed to pass a detailed speaking order as to the manner in which the matter was considered by the Circle Relaxation Committee and the basis on which it arrived at the conclusion that the applicant did not deserve an appointment on compassionate grounds as compared to those who had been selected for compassionate appointment. If the claims had been considered by the Circle Relaxation Committee by awarding points to the claimants under different criteria such as status of the family, earning member, income, liabilities, assets etc. then the points awarded to the applicant on each along with the total points as also the total points awarded to the last

selected candidate must be reflected in the speaking order. "

In compliance of the above directions, the respondents passed the speaking order mentioning the same grounds against which the earlier OA was filed by the applicant.

2. The applicant in the present OA has referred to the reply of the respondents filed in earlier OA No.492/2015 wherein in Para-4(1) to (5) the respondents categorically stated that the case of the applicant was considered on the basis of pre-determined parameters instead of his qualification and since his case was not found indigent enough in comparison to other cases considered along with his case to the extent of available vacancies, the case was not recommended by the prescribed Relaxation Committee for appointment on compassionate appointment. It was also stated in the said reply that the CRC considered all the cases adopting the yard stick based on 100 points scale of various attributes fixed by the competent authority to make comparative, balanced and objective assessment of financial condition of each case and recommended the most deserving cases based on merit. Therefore, the ground taken by the respondents in the impugned speaking order dated 7.8.2018 that there was no point system at the time

of consideration of the case of the applicant is totally false. The applicant has further stated that this Tribunal directed the respondents to pass a detailed speaking order as to the manner in which the matter was considered by the CRC and the basis on which it arrived at the conclusion that the applicant did not deserve appointment as compared to others. The respondents have not adhered to the above direction while passing the impugned order Ann.A/1.

3. In reply to the OA, the respondents have repeated almost same grounds that the deceased has two daughters and four sons and they were married. No family member was dependent on the deceased GDS. The family has own house and 1.4 HC agriculture land with income of Rs. 18000 p.a. There was no liability or education of minor children and marriage etc. Therefore, on the above grounds the Circle Relaxation Committee (CRC) has not found justification for compassionate appointment of the applicant. The respondents have further submitted that the number of vacancies available for compassionate appointment in a year is very limited and those vacancies are to be utilized for the applicants of the families, which are in extreme indigent conditions. The applicant's case was considered by the CRC on all parameters and thereafter

rejected being not found to be extreme indigent. The case of the applicant pertains to the period before introduction of point system, thus there was no question of allocating the marks on the basis of point system. The point system was introduced vide Directorate letter dated 14.12.2010, whereas the case was considered in the year 2009. In support of their pleadings, the respondents have stated that the applicant cannot claim compassionate appointment as a matter of right and referred a number of judgments of the Hon'ble Supreme Court.

4. Heard the learned counsels of both the parties and perused the material available on record.
5. After hearing the rival contentions of both the parties, I find that the impugned speaking order passed by the respondents does not contain the reasons as per observations made by this Tribunal vide earlier order to the effect that - the order would not be a speaking order in the absence of disclosure as to the number of available posts for compassionate appointment in the relevant year, number of posts filled and how the financial condition of the family of the applicant had been assessed relative to other claimants. The respondents were required to pass a

detailed speaking order stating the manner in which the matter was considered by the CRC and the basis on which it arrived at the conclusion that the applicant did not deserve an appointment on compassionate grounds as compared to those who had been selected for compassionate appointment. It is also noticed that the respondents in reply to earlier OA No.492/2015 in para 4(1) to (5) have stated that the respondents have considered the case of the applicant on the basis of pre-determined parameters instead of his qualifications and since his case was not found indigent enough in comparison to other cases considered along with his case to the extent of available vacancies, the case was not recommended by the prescribed Relaxation Committee for appointment on compassionate grounds. The CRC considered all the cases adopting the yardsticks based on 100 points scale of various attributes fixed by the competent authority to make a comparative, balanced and objective assessment of financial condition of each case and recommended most deserving cases based on merit to the extent of available vacancies. In earlier reply, the respondents have also submitted that there is no justification for granting any relief to the applicant as per the Directorate letter dated

14.12.2010, 09.03.2012 and 09.10.2013, the married son is not dependent on the deceased family hence not found eligible for appointment on compassionate appointment. Whereas in the present case, the stand of the respondents is that no such point system was in existence when the case of appointment of the applicant was considered by the CRC. I find that the stand of the respondents for considering the case of the applicant is different in two litigations. In reply to the earlier OA, they have referred to the Directorate letter of the year 2010, 2012 and 2013 for not granting any relief, whereas the case of the applicant was rejected in the years 2009. The respondents though placed copy of the note sheet in the present OA, but it does not disclose grounds and reasons for rejection of the case of the applicant. The minutes of the CRC are also not on record to suggest the manner in which the case of the applicant was considered. In these, circumstances, the order dated 7.8.2018 cannot be said to be reasoned, detailed or a speaking order. Though the applicant cannot claim compassionate appointment as a matter of right, but when the rules provide for consideration of his claim, he has a right to be considered in a fair manner.

6. Therefore, the impugned order dated 7.8.2018 (Ann.A/1) is quashed. The respondents are directed to pass appropriate order in the matter, which should elaborately deal with the observations of this Tribunal as well as relevant rules/instructions on the subject. While passing the order, the respondents shall also take into account the fact of taking different stand in the replies filed by them. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

7. With these observations, the OA stands disposed of with no order as to costs.

(HINA P.SHAH)
JUDL. MEMBER

R/