

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2058 of 2018

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1. The Union of India through the Secretary cum D.G. Government of India, Ministry of Communication & IT, Department of Posts, Dak Bhawan, New Delhi.
 2. The Assistant Director General (GDS), Government of India, Ministry of Communications & IT, Department of Posts (GDS Section), Dak Bhawan, New Delhi.
 3. The Chief Post Master General, Bihar Circle, Patna.
 4. The Assistant Director (Recruitment), O/o Chief Postmaster General, Bihar Circle, Patna.
 5. The Postmaster General, Northern Region, Muzaffarpur.
 6. The Superintendent of Post Offices, Darbhanga Division, Darbhanga.

.... Petitioner/s

Versus

Sanjay Kumar Sah, Son of Late Ram Susheel Sah, Resident of Village & P.O.- Dhadhiya, P.S.- Kamtaul, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Sharan, A.S.G.

For the Respondent/s : Mr. Jayant Kumar Karn, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 19-12-2018

The Union of India in its Ministry of Communication and I.T., Department of Posts along with some of its officials have questioned the judgment and order passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') dated 01.08.2017 in O.A. No.78 of 2016 (Sanjay Kumar Sah vs. The Union of India), whereby the original application of the respondent-applicant has been allowed and the case of the respondent applicant for compassionate appointment has been remitted to the department for its consideration afresh in



accordance with the latest circular dated 30.05.2017.

We have heard Mr. Anjani Kumar Sharan, learned Assistant Solicitor General for the petitioners and Mr. Jayant Kumar Karn, for the sole respondent.

The respondent-applicant is a son of an employee of the Postal Department who died in harness on 18.04.2011 while holding the post of Gram Dak Sevak, Branch Postmaster under Darbhanga Postal Division.

The application filed by the respondent-applicant for compassionate appointment was considered and rejected by the department on 23.05.2014 on grounds of being married son. However, since a similar rejection was questioned by other applicants and upheld by the 'Tribunal' that the department reconsidered the case of the respondent-applicant on merits and has rejected the same by order dated 11.01.2016 on grounds that the respondent-applicant secured 22 merit points as against the cut-off of 50 merit points in terms of the circular dated 01.08.2011, in force at the relevant time.

It is feeling aggrieved by the order of rejection that the respondent-applicant moved the 'Tribunal' which has been allowed by the judgment and order impugned and feeling aggrieved the Union of India along with its functionaries are before this Court.

Mr. Sharan, learned Assistant Solicitor General has



questioned the judgment and order of the 'Tribunal' on the following grounds:

- (a) The judgment and order of remand is non-speaking as no reasons have been assigned by 'the Tribunal' for ordering remand;
- (b) No illegality has been pointed out in the evaluation of merit points allotted to the respondent-applicant which did not qualify him for appointment; and
- (c) No reasons have been assigned by the 'Tribunal' as to why the case of the respondent-applicant on remand is to be considered under the new circular which came into force only on 30.05.2017 when the death of the father took place on 18.04.2011 and on which date, it is the circular dated 01.08.2011, which was in force.

Mr. Jayant Kumar Karn, learned counsel appearing for the respondent-applicant has supported the impugned order by submitting that since the revised scheme dated 30.05.2017 was introduced by the petitioner-respondents themselves on review of the earlier schemes and finding flaw in the manner of evaluation, the case of the respondent-applicant required to be considered in the changed circumstances and since the 'Tribunal' has accepted the plea, its order may not be interfered with.

We have heard learned counsel for the parties and we have



perused the records.

The circumstances warranting a remand, are well settled and it is only where a decision by an authority exercising quasi-judicial power is found to be erroneous, in excess of jurisdiction, de-hors the statutory prescriptions or de-hors the materials on record, which warrants a reconsideration of the matter afresh, that a remand of the matter may provide an answer to the issue raised but a prayer for remand, cannot be granted on mere asking by an applicant, as has been done in the present case.

I have examined facts pleaded in the original application as well as the counter affidavit filed in the present case but do not find any discussion as to how the evaluation of 22 merit points awarded to the respondent-applicant, under the scheme, suffered any infirmity.

The records of the original application is placed with the present proceedings and we find that there has been constant improvement in the scheme of compassionate appointment in the respondent department. The system of evaluation provided in the scheme dated 14.12.2010 continued to govern the issue despite being replaced by the subsequent schemes dated 01.08.2011, 09.03.2012 and 09.10.2013.

All these schemes were reviewed by the department themselves to introduce a revised scheme on 30.05.2017 which



scheme dispensed with the system of award of marks. The scheme at paragraph 3 takes into its fold all pending cases which remained undecided as on 30.05.2017 but settled cases were kept out. The case of the respondent-applicant was rejected on 11.01.2016 because he failed to secure 50 merit points as per the scheme in force, having secured only 22 merit points.

Since the respondent-applicant has failed to demonstrate any infirmity in this award of 22 merit points by the department the decision to disqualify him from compassionate appointment cannot be faulted. It was an erroneous decision by the 'Tribunal' to remand the matter for fresh consideration by the department on mere asking of the respondent-applicant simply because a new scheme had been introduced by the department which had done away with the system of award of points.

As held above, an order of remand cannot be passed on mere asking until the person aggrieved, is able to demonstrate any infirmity in the decision-making process which has led to the order of rejection and which essential pre-requisite for an order of remand, is missing in the present case.

The discussions above lead to an irresistible conclusion that neither the order of remand passed by the 'Tribunal' is founded on cogent reasons nor the claim of the respondent-applicant is sustainable on merits.



In the circumstances discussed, we are unable to uphold the judgment and order passed by the ‘Tribunal’ which is bereft of reasons and even on merits the respondent-applicant has failed to make out a case for indulgence.

In result, the judgment and order of remand dated 01.08.2017 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No.78 of 2016 (Sanjay Kumar Sah vs. The Union of India) is quashed and set aside.

The writ petition is allowed but without any order as to costs.

Let the records of the proceedings be returned to Mr. Anjani Kumar Sharan, learned Assistant Solicitor General for being returned to the department.

I agree
Nilu Agrawal, J.

(Jyoti Saran, J)

(Nilu Agrawal, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22-12-2018
Transmission Date	NA

