

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.10634 of 2016 (O&M)

Date of Decision: 17.05.2018

Dinesh

...Petitioner

VS.

Union of India & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan**

Present: Mr. Anil Kumar Bhardwaj, Advocate for the petitioner

Mr. Namit Kumar, Advocate for respondents No.1 to 3

SURYA KANT J. (Oral)

(1) The petitioner assails the orders dated 30.10.2015 and 20.11.2015 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal'). Vide the first order, petitioner's OA was summarily dismissed and vide the second order, his review application has also been turned down.

(2) The father of the petitioner was working as Waiter (Class-IV post) in the respondent-Department. He unfortunately died on 02.09.2010 due to cancer while he was in service. The deceased employee left behind his wife, two daughters and three sons. The mother of the petitioner initially applied for appointment of her son as Postal Assistant but having found that he was not possessing the requisite qualification, she moved another application to appoint him on a Class-IV post. It appears that the petitioner was not found entitled to as per the criteria evolved by the respondent-Department. The said action came to be challenged before the Tribunal by way of Original Application.

(3) On 30.10.2015, the Tribunal summarily dismissed the petitioner's OA as no one appeared on his behalf. On some previous dates also, the proxy counsel had appeared and sought adjournment on behalf of the petitioner's counsel. The Tribunal further observed that according to the respondent-Department, the petitioner was considered second time but he did not make to the benchmark for compassionate appointment. The review application filed by the petitioner was also rejected.

(4) Having heard learned counsel for the parties, it appears that the matter requires reconsideration by the Tribunal. Suffice it to observe that the petitioner has questioned the marks allocated to him with reference to the benchmark hence his OA was required to be decided on merits. Still further, non-appearance of counsel for the petitioner was for the reasons beyond his control as he had gone to Sangrur to see his ailing mother.

(5) Taking into consideration the totality of the circumstances, it would be in the interest of justice to set aside the impugned orders dated 30.10.2015 and 20.11.2015 and remit the case to the learned Tribunal for afresh adjudication on merits. Ordered accordingly.

(6) Parties are directed to appear before the Tribunal on 18.07.2018.

(7) It is clarified that we have not expressed any views on merits.

(Surya Kant)
Judge

17.05.2018
vishal shonkar

(Shekher Dhawan)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No