

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9086 of 2018

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Suman Kumar Singh @ Suman Singh, S/o Late Ajir Bharti Singh, Ex-BPM,
Pargarhi at Village- Pargarhi, P.S.- Sabour, District- Bhagalpur

... .. Petitioner

Versus

1. The Union of India through the Chief Postmaster General, Bihar, G.P.O. Patna PIN Code-800001
2. The Superintendent of Post Office, Bhagalpur Division, Bhagalpur, PIN Code- 812502.
3. The Assistant Superintendent of Post Office, Bhagalpur Division, Bhagalpur, PIN Code- 812502

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Shivendra Kishore, Senior Advocate Mr. Saroj Kumar, Advocate Mr. Bimlendu Shekhar, Advocate
For the Respondents-UOI:		Mr. S.D Sanjay, Addl. Solicitor General Mr. R.K. Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 25-11-2019

Heard Mr. Shivendra Kishore, learned senior advocate for the petitioner and Mr. S.D. Sanjay, learned Additional Solicitor General for the Union of India.

2. This application under Article 226 of the Constitution of India has been filed by the petitioner for quashing the order dated 24.11.2017 passed by the Central Administrative Tribunal, Patna (for short 'the Tribunal') in O.A. No.276 of 2017 whereby the prayer of the petitioner for



quashing the order dated 09.01.2012 passed by the Superintendent of Post Office, Bhagalpur whereby claim of the petitioner for appointment on compassionate ground was rejected has been dismissed.

3. The admitted facts of the case are that the father of the petitioner, namely, Ajay Bihari Singh while discharging the duty of BPM of Pargarhi Post Office under the administrative control of the Assistant Superintendent of Post Office, Bhagalpur died in harness on 02.07.2010. Prior to his death, his wife had also died. Late Ajay Bihari Singh had left behind three daughters and the only son, namely, the petitioner.

4. The petitioner filed an application for appointment on compassionate ground enclosing the required documents. The application of the petitioner for appointment on compassionate ground was rejected by the Superintendent of Post Office, Bhagalpur vide order dated 09.01.2012 after examination of his case on the ground that he did not qualify the parameters fixed by the respondents for appointment on compassionate ground.

5. Being aggrieved by the decision whereby the application of the petitioner for compassionate ground was rejected, the petitioner represented before the Assistant Director



(S &R), Office of the Chief Post Master General, Bihar Circle, Patna for reconsideration of his claim for appointment on compassionate ground vide letter dated 23.05.2012. The said representation of the petitioner was considered once again. However, it was found that he could earn only 28 points as per parameters fixed by the department. Hence, he could not be appointed on compassionate ground. The said decision was communicated to the petitioner vide order dated 19.06.2012. Thereafter, the petitioner filed an application before the Tribunal giving rise to O.A. No.276 of 2017.

6. The said O.A. No. 276 of 2017 was dismissed vide order dated 24.11.2017 holding as under:-

“3. This is a case of compassionate appointment. The applicant's father died in harness on 02.07.2010 while discharging the duty of B.P.M. of Pragarhi Post Office. The respondents' counsel submits that his case for compassionate appointment was considered in 2011 and it was rejected on merit and the decision was communicated in 2012. Thereafter, the applicant approached the Tribunal after 5 years. Therefore, this matter is barred by limitation.

4. The applicant's submission is that the said rejection order was not conveyed to



him and because of his poor financial condition, he deserve consideration. He also submitted that he is physically handicapped. The applicant earned only 28 points as against minimum 50 points as per parameters fixed by the Department.

5. It is well settled in law that the compassionate appointment is not a matter of right and in exception to the general principle of equality and equal opportunity in compassionate appointment under article 14 and 16 of the constitution, this extended to provide minimum relief from financial penury on account of sudden loss of bread earner of the family. Since the death has happened about 7 years back and the applicant does not seem to have show any urgency, he cannot take advantage. Even if his plea is accepted, rejection order was not communicated to him, it was open to him to approach the Tribunal in time.

6. Accordingly, the O.A. is dismissed as barred by limitation. No costs.”

7. Being aggrieved by the aforesaid order dated 24.11.2017 passed by the Tribunal, the petitioner has filed the instant writ petition.

8. Mr. Shivendra Kishore, learned senior advocate



appearing for the petitioner submitted that the impugned order 24.11.2017 is not sustainable in view of the fact that the Tribunal failed to appreciate that there was no clarity as to how the respondents came to the conclusion that the petitioner had earned only 28 points against 50 points minimum requirement fixed by the department. He submitted that the order dated 24.11.2017 is also bad in law and fit to be quashed along with the earlier impugned orders passed by the respondents, as the Tribunal itself had condoned the delay caused in filing the original application. According to him, once the limitation petition was allowed, the Tribunal ought not to have rejected the application on the ground of limitation.

9. *Per contra*, Mr. S.D. Sanjay, learned Additional Solicitor General submitted that there is no illegality in the order dated 24.11.2017 passed by the Tribunal. He contended that the case for appointment on compassionate ground of the petitioner was considered in 2011 and was rejected on merits. After the decision was communicated to the petitioner, he filed another application for reconsideration of his claim, which was also rejected in the year 2012, but the application before the Tribunal was filed after more than five years in 2017 challenging the order passed by the respondent no.2 on 09.01.2012. According



to him, the appointment on compassionate ground is not a source of recruitment. The same is made in order to mitigate the hardship of the financial penury on account of sudden death of the bread winner. He contended that since the death had happened in the year 2010 and the applications of the petitioner were rejected by the respondent no. 2 on 09.01.2012 itself, there would have been no justification for the Tribunal in the year, 2017 to have allowed the original application. Hence, the Tribunal rightly rejected the claim of the petitioner.

10. We have heard learned counsel for the parties and perused the materials on record.

11. It is well settled position in law that the objective of appointment on compassionate appointment is to mitigate the hardship of a dependent family members of a government servant dying in harness. It is to relieve the family of the government servant concerned from financial destitution and to help it to get over the financial emergency.

12. It would be evident from the materials on record, the Department of Posts has framed a scheme based on relative merit points for compassionate appointment keeping the aforesaid objective in mind.

13. The allocation of points to various attributes



based on hundred point-scale, which has been worked out is indicated in the tables below:-

(a) Family Pension (Basic Excluding DA & Allowances)

S. No.	Points	Proposed Slab for Department of Posts
1	20	Upto 5000
2	18	5001-8000
3	16	8001-11000
4	14	11001-14000
5	12	14001-17000
6	10	17001-20000
7	8	20001-23000
8	6	Above 23000

(b) Terminal benefits (DCRG, GPF, CGEGIS, Leave encashment & Pension Commutation)

S. No.	Points	Proposed Slab for Department of Posts
1	10	Upto 140000
2	9	140001-168000
3	8	168001-196000
4	7	196001-224000
5	6	224001-252000
6	5	252001-280000
7	4	280001-308000
8	3	308001-336000
9	2	336001-364000
10	1	364001-420000
11	0	420001 & above

(c) Monthly income of earning members and income from property



S. No.	Points	Proposed Slab for Department of Posts
1	5	No Income
2	4	2500 or less
3	3	2501-3500
4	2	3501-4500
5	1	4501-5500
6	0	5500 & above

(d) Movable/Immovable Property

S. No.	Points	Proposed Slab for Department of Posts
1	10	Nil
2	8	Upto 150000
3	6	150001-300000
4	3	300001-600000

(e) No. of dependents-Points

Unmarried daughters	Points
(i) 3 and above	15
(ii) 2	10
(iii) 1	5
(vi) None	0

(g) No. of Minor children-Points

Minor Children	Points
(i) 3 and above	15
(ii) 2	10
(iii) 1	5
(vi) None	0

(h) Left over Service-Points

Left Over Service	Points
(i) Over 20 years	10



(ii) Over 15 & 20 years	8
(iii) Over 10 & upto 15 Years	6
(vi) Over 5 & 10 Years	4
(vi) 0-5 years	2

14. Under the scheme, in addition to the above, cases where the applicant is the wife of the deceased official herself for compassionate appointment, she shall get 15 additional points as grace points. The said provision has been made keeping in mind the general principle that the widow needs to be given preference for compassionate appointment.

15. The Department of Posts decided that in order to be appointed on compassionate ground, an applicant should achieve minimum 50 points on a 100 points scale, as indicated in the tables hereinabove.

16. As a rule, the appointments in public services are required to be made strictly on the basis of open invitation of applications and merit. However, to this general rule, which is required to be strictly followed in the cases of appointment, there are some exceptions. One such exception is appointment on compassionate ground, because no applications are invited while making such appointments.

17. In such cases, out of humanitarian



consideration, dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood are appointed in order to ensure that unless some source of livelihood is provided, the family would not be able to make its both ends meet. The object is not to give a member of such family a post. The purpose is to mitigate the hardships due to the death of the bread winner of the family. The compassionate appointment cannot be granted after a long period. It is not a right, which can be offered at any time in future. While deciding the case for employment on compassionate ground, the authority considering the claim is required to give some cogent reasons for rejecting the claim.

18. In the instant case, as seen above, the Department of Posts has decided in order to be appointed on compassionate ground, an applicant should achieve minimum 50 points on a 100 points scale. The petitioner could earn only 28 points as against minimum 50 points as per parameters fixed by the department. The reasons assigned for denying appointment on compassionate ground to the petitioner by the respondents are cogent and sound.

19. Since the petitioner approached the Tribunal after five years, the Tribunal rejected the application of the



petitioner on an additional ground that he has not shown any urgency in approaching the Tribunal.

20. In our opinion, the delay of five years caused in filing the application before the Tribunal after the rejection of the application by the respondents for appointment on compassionate ground was itself indicative of the fact that the family of the petitioner was not in penury and had no hardships to make both the ends meet.

21. Keeping in mind the discussions made above, in our opinion, the Tribunal has rightly rejected the application filed by the petitioner.

22. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

(Prakash Chandra Jaiswal, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2019
Transmission Date	NA

