

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH, CHENNAI**

Original Application No. 310/00022 / 2014

Today, Monday the 1st Day of February, Two Thousand Sixteen

CORAM: HON'BLE SHRI K. ELANGO.....MEMBER(J)
HON'BLE SHRI R. RAMANUJAM.... MEMBER (A)

J. Prabhavathi,
D/o. (Late) Jothivel,
Navalur Village and Post,
Attur Taluk,
Salem District,
Pin- 636 116.

.....Applicant

[by Advocate:M/s. R. Malaichamy]

Vs

Union of India,
Rep. by the Senior Superintendent of Post Offices,
Salem East Division,
Salem- 636 001.

.....Respondents

[by Advocate: Mr. V. Chandrasekaran]

ORDER (ORAL)

Mr. R. Ramanujam, M(A):-

The applicant seeks compassionate appointment in the department of the respondent consequent upon the death of her father on 26.6.2011. The respondents contest the claim on the ground that the applicant's father had already been removed from service on the said date and, therefore, she would not be entitled to a compassionate appointment.

2. When the matter is taken up for hearing today, learned counsel for the applicant points out that this Tribunal had by order dated 04.11.2010 in O.A. 213/2010 directed the respondents to reinstate the applicant's father in service forthwith with a further direction that the respondents may conduct de nova proceedings against the applicant on the charges levelled against him in accordance with law, after affording all reasonable opportunities to him and pass appropriate orders. The said order of the Tribunal was challenged in W.P. 5247/2011 before the Hon'ble High Court of Madras in which an interim stay was granted on 04.03.2011. Subsequently, by the time the Hon'ble High Court took up the matter, the applicant's father had died and, therefore, the Hon'ble High Court by order dated 26.08.2011 observed that nothing survived for adjudication in the Writ Petition and accordingly dismissed the Writ Petition.

3. Learned counsel for the applicant points out that in view of the dismissal of the Writ Petition filed by the respondents in the said O.A., directions contained therein are final and binding. The applicant in the said O.A. i.e. the applicant's father would have been reinstated into service but for the interim stay granted by the Hon'ble High Court. As the departmental proceedings would have taken sometime, the applicant would have died while in service had the order of the

Tribunal been complied with. In view of this, his family should be deemed eligible for compassionate appointment upon the death of the employee.

4. Learned counsel for the respondents does not dispute the facts of the case but, points out that the scheme for compassionate appointment is only applicable to an employee who dies while in service and in this case, the employee had died before reinstatement. He was not reinstated because of the stay granted by the Hon'ble High Court of Madras.

5. We agree with the learned counsel for the applicant ^{that} but for the interim stay granted by the Hon'ble High Court of Madras, the applicant would have been reinstated into service and died while in service. In this view of the matter his family should be considered eligible for the scheme of compassionate appointment as otherwise the order of removal of the applicant's father would become final, rendering the order of this Tribunal setting aside the same and directing the respondents to reinstate the applicant inconsequential.

6. In the aforesaid facts and circumstances of the case, we deem it appropriate to direct the respondents to consider the request of the applicant for appointment on compassionate grounds subject to eligibility and in accordance with law and the relevant scheme. An appropriate speaking order shall be passed thereafter within a period of three months from the date of receipt of copy of the order.

7. The O.A. is disposed of accordingly. There shall be no order as to costs.