

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 67 of 2017

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

1. Ali Dei @ Nayak, aged about 63 years, W/o Late Bhima Nayak
2. Bharat Nayak, aged about 40 years, S/o Late Bhima Nayak

Both are of Vill-Kuranji Pur. PO-Dalakasoti, PS-Balipatna, Dist.- Khurda.

.....Applicants

VERSUS

1. Union of India, represented through its Secretary, Department of Posts, Ministry of Communication, Govt. Of India, Dak Bhawan, New Delhi – 110001.
2. Chief Postmaster General, West Bengal Circle, Kolkata – 700012.
3. Director Postal Services, O/o Chief Postmaster General, West Bengal Circle, Kolkata – 700012.
4. Senior Postmaster, Alipur Head Post Office, At/Po-Alipur, Kolkata – 700027.

.....Respondents.

For the applicant : Mr.D.P.Dhalsamant, counsel

For the respondents: Mr.A.K.Mohapatra, counsel

Heard & reserved on : 6.12.2019 Order on : 18.12.2019

ORDER

Per Mr.Gokul Chandra Pati, Member (A)

The OA has been filed for the following reliefs:-

“8.1 That the order dated 30.11.2016 (A/2) be quashed.
8.2 That the respondents be directed to provide an appointment to applicant No.2 under compassionate ground as per order dated 11.8.2016 passed in OA No. 838/2013.
8.3 And further be pleased to pass any other order/orders as deemed fit and proper.”

2. The father of the applicant No.2 expired on 29.4.1998 while working as Group-D post under the respondents. After his death, the applicant No.2 applied to respondent No.3 for compassionate appointment, which was not considered. But he was engaged on ad hoc basis against Group-D post. The applicants filed a TS before the civil court in 1999, which was rejected in 2004 on ground of jurisdiction. Then he filed the OA No. 489/2010 in which, the respondents averred in Counter that the case of the applicant was under consideration. The OA was disposed of with direction to consider the case on

priority and communicate the decision. But the case of the applicant No.2 for compassionate appointment was rejected as he was a married son of the deceased employee.

3. Being aggrieved, the applicant filed the OA No. 838/2013, Vide order dated 11.8.2016 (Annexure-A/1), the Tribunal allowed the OA while quashing the rejection order with direction to the respondents to consider the case as per the rules as applicable as on the date of death of late father of the applicant No.2 and the date of representation for compassionate appointment. The respondents, on reconsideration of the matter, have rejected the case vide order dated 30.11.2016 (Annexure-A/2), which has been challenged in this OA.

4. The order dated 30.11.2016 (Annexure-A/2) stated as under:-

“In accordance with the Postal Directorate communication no 37-36/2004-SPB-I/C dated 20.1.2010 the merit point of the applicant, taking into account the status at the time of death of the deceased employee was assessed and the applicant, Sri Bharat Nayak earned 61 merit points.

In compliance with the Hon’ble Cat, Cuttack Bench order dated 11.8.2016 the case of the said applicant was placed before the CRC meeting held on 29.11.2016 in MTS cadre against the earmarked vacancies of 2014. But the CRC could not recommend the case of the applicant, Sri Bharat Nayak as he earned 61 merit points whereas the last recommended candidate earned 81 merit points.

However, his case will again be placed before the next CRC meeting as and when it will be held.”

5. Counter filed by the respondents stated as under:-

“So, the main criteria for making compassionate appointment is same in both old and new guidelines, only the department has introduced point allocation system to measure the indigence of the applicant conveniently to select the deserving candidates against the vacancies earmarked for compassionate appointment under 5% vacancies of direct recruitment quota.

The case of Shri Bharat Nayak, S/o late Bhim Nayak for compassionate appointment in MTS Cadre against the earmarked vacancies for the year 2014 was placed before the Circle Relaxation Committee meeting held on 29.11.2016. But the said case of Shri Bharat Nayak S/o Late Bhim Nayak was not recommended by the Circle Relaxation Committee as he earned 61 merit points whereas the last recommended candidate has earned 81 merit points.

It was again placed in MTC Cadre for 2nd time against the earmarked vacancies for the year 2015-16 before the Circle Relaxation Committee meeting held on 29.11.2016. But the said case of Shri Bharat Nayak S/o late Bhim Nayak was not recommended by the Circle Relaxation Committee as he earned 61 merit points whereas the last recommended candidate has earned 76 merit points.

A special CRC meeting was held on 10.4.17 to reconsider the case of the applicant, Sri Bharat Nayak, CRC in its meeting dated 10.4.17 has observed that:

- i) Late Bhim Nayak, Ex-Gr.D (Sweeper) Alipore HO died in harness on 29.4.1998 at the age of 53 years (about) leaving his wife (50 years), two married daughters, two sons of 20 and 18 years at that time.
- ii) The family of the deceased employee have been residing at their own house.

- iii) At the time of death of the deceased employee, his sons and daughter were grown up and two daughters were already married. So the deceased employee had no liability towards education of minor children and marriage of daughters at the time of death.
- iv) While examining the case as per the scheme prevailing at that time the assets and liabilities and other relevant factors such as the size of the family, the ages of the children and the essential needs of the family were considered and it is seen that the family has own house to reside and two daughters were already married.
- v) The family of the deceased employee has already passed 19 years from the date of death of the employee i.e. the family has already crossed the crisis period.
The CRC has rejected the case of applicant No.2 as the case is not deserving one for offering compassionate appointment vide order dated 20.4.17 (Annexure R/1)."

6. The order dated 20.4.2017 by which the case of the applicant was considered stated as under:-

"As per the scheme prevailing at the time of death of the ex-employee i.e. on the basis of the scheme envisaged in DOP&T OM dated 9.10.1998, the cases were considered on the basis of the assets and liabilities and other relevant factors such as the size of the family, the ages of the children and essential needs of the family etc.

So, there is no material difference between the old and new scheme. The allocation of merit point has been introduced by the Department of Posts, only to bring complete transparency.

However, the case of Compassionate Appointment of the applicant has been re-considered by the Circle Relaxation Committee in its special meeting held on 10.04.2017 in the light of the scheme operating at the time of death of the ex-employee, i.e. on the basis of the scheme for compassionate appointment dated 9.10.1998 and observation of the CRC is as follows :

- i) Late Bhim Nayak, Ex-Gr.D (Sweeper) Alipore HO died in harness on 29.4.1998 at the age of 53 years (about) leaving his wife (50 years), two married daughters, two sons of 20 and 18 years at that time.
- ii) The family of the deceased employee have been residing at their own house.
- iii) At the time of death of the deceased employee, his sons and daughter were grown up and two daughters were already married. So the deceased employee had no liability towards education of minor children and marriage of daughters at the time of his death.
- iv) As per the scheme prevailing at that time the assets and liabilities and other relevant factors such as the size of the family, the ages of the children and the essential needs of the family were considered and it is seen by the CRC that the family has own house to reside and two daughters were already married.
- v) The family of the deceased employee has already passed 19 years from the date of death of the employee i.e. the family has already crossed the crisis period.

In view of the observation the Circle Relaxation Committee has rejected the case of Sri Bharat Nayak, son of Late Bhim Nayak, Ex-Gr- D (Sweeper), Alipore Head Post Office, as the case is not a deserving one."

7. No Rejoinder has been filed by the applicant to contradict the averments in the Counter.

8. Heard learned counsel for the applicant and the respondents and considered the pleadings on record. The order dated 20.4.2017 was issued after filing of the OA. But after it was disclosed in the Counter, the applicant

has not challenged the said order dated 20.4.2017 in the OA. It is seen from the order dated 20.4.2017 that the case of the applicant has been considered as per the guidelines of the DOPT dated 9.10.1998 and rejected. The order of the Tribunal vide order dated 11.8.2016 (A/1) is to consider the case of the applicant as per the rules in force when the applicant No.2's father expired in 1998. From the materials available on record, the order dated 20.4.2017 (Annexure-R/1) is in accordance with the order dated 11.8.2016 of the Tribunal and the contention in the OA that the respondents have violated the order dated 11.8.2016 of the Tribunal is not justified.

9. In view of the above, I am of the considered view that there is no infirmity in the decision of the respondents as per the order dated 20.4.2017 (Annexure-R/1) and the OA lacks merit. It is accordingly dismissed with no order as to cost.

(GOKUL CHANDRA PATI)
MEMBER (A)

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