

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.62/2019

Date of Decision: 25.02.2020.

CORAM: R. VIJAYKUMAR, MEMBER (A)

Dipak Suryabhan Kawade
 Age 27 yrs., Son of (Late)
 Shri Suryabhan Kushaba Kawade.
 R/at Post Chikni, Taluka Sangamner,
 Dist. Ahmednagar 422 605. ... *Applicant.*

(By Advocate Ms. Sujata Krishnan)

VERSUS

1. Union of India,
 Through the Secretary,
 Department of Posts, Ministry of
 Communication, Dak Bhawan,
 New Delhi 110 001.
2. The Chief Post Master General,
 Maharashtra Circle, G.P.O.,
 Mumbai 400 001.
3. The Assistant Director Postal
 Services (Rectt.), Office of C.P.M.G.,
 Maharashtra Circle, Mumbai 400 001.
4. The Post Master General
 Pune Region, Pune 411 001.
5. The Superintendent of Post Offices,
 Shrirampur Division, Shrirampur -
 - 413 709.
6. Senior Post Master
 Sangamner, S.P.O.,
 Dist. Ahmednagar – 422 605. ... *Respondents*

(By Advocate Shri V.S. Masurkar)

ORDER (Oral)
Per : R. Vijaykumar, Member (A)

This Original Application has been filed on 30.10.2018 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"8(a) To allow the application,

(b) To call for the records and proceedings of the Circle Relaxation Committee held by Respondents wherein the case of the applicant was considered and after perusal of the same the Tribunal may quash and set aside the impugned letter dated 07.09.2016.

(c) To further direct the respondents not to take into consideration the terminal benefits amounts (for anyone) and re-assess cases, by reallocating marks to those considered for appointments including applicant,

(d) To pass any other order which may be just and equitable in the facts and circumstances of the case,

(e) To award the cost of application"

2. The Applicant is the elder son of the second wife of the late deceased employee whose date of birth and date of

superannuation are not revealed in this OA. After decease of the employee on 17.05.2013, an application was made for compassionate appointment by the applicant, who is the elder son of the second wife and has one male sibling who is three years younger than him. The deceased had married the second wife, who is the mother of the applicant, when the first wife was alive and no divorce certificate was taken and it is stated that the first wife had no issues.

3. Against this application, the respondents considered his case in the Circle Relaxation Committee (CRC) held on 05.01.2016, 06.01.2016, 31.03.2016, 06.04.2016 and 13.05.2016 and considered 191 requests up to calendar year 2014 and filled up 59 vacancies which, they state in their reply at para 27, as getting more than 58 merit points whereas the applicant obtained 47 merit points and was ranked at 63 below 62 other cases which had not been recommended for compassionate appointment. On this basis, the respondents had informed in their impugned letter dated 07.09.2016

that he was found with relatively less points than other deserving cases as per the relative points system and hence, was not recommended for compassionate appointment.

4. In response to the statement of facts as per the CRC at para 27 of the reply, the applicant has filed a Rejoinder on 10.07.2019 and reiterates the averments made in the OA and his claim for entitlement for relief. Reference to the OA shows that the applicant, in his grounds for relief, has claimed that he had duly filed his papers for compassionate appointment and that his family was in indigent condition and nobody from the family is employed nor financial support is available to the applicant and his case was genuine. He has argued that the applicant's case was not properly considered by the respondents.

5. Learned counsel for the applicant was enquired as to what she would consider were the points to which applicant was entitled as per the elaborate scheme of awarding points drawn up by the respondents to which, she confessed, that they had not arrived at

any calculation and therefore, it cannot be said that they have specific material to contest the claim of the respondents. In the circumstances, the challenge made out by the applicant has no basis in facts and only consists of a mere statement that the person has filed necessary papers and therefore, is entitled cannot hold good in the face of the fact that the applicant had to be considered along with other 190 persons whose cases were placed before the same CRC. In view of the above, the OA clearly bears no merits.

6. In the present case, the impugned order has passed on 07.09.2016 and this OA has been filed on 30.10.2018 roughly after 1 year 1 month 23 days delay for which no explanation has been furnished. Therefore, MA No.50/2019 filed on 19.11.2018 arguing that since the DOPT OM dated 26.07.2012 has itself withdrawn the time limit of three years for considering cases of compassionate appointment was necessary for the Tribunal to condone the delay. However, the grant of compassionate appointment is a departure from the Constitutional scheme to enable the

employer to rush to the assistance of a family in grave distress that has resulted from the sole employee having expired leaving them without any physical or financial assistance. The delay therefore has a bearing on the application of the scheme itself and is not to be considered a mere formality to be overcome by reference to liberal provisions or a liberal interpretation of the rules. The challenge to a particular order of a CRC cannot rest on this DOP&T Circular. However, the Circular does enable the applicant to be considered in future CRCs in accordance with its terms and he will be entitled to be listed with later applicants for the upcoming vacancies. Therefore, this OA is also hit by delay and laches.

7. Learned counsel for the applicant also pleads in the OA that family pension and benefits have not been granted to the family of the deceased but the matter is not before us in this OA and the applicant would be well advised to file necessary papers and claims with the respondents to obtain such

benefits in accordance with the rules and law.

8. In the circumstances, the OA is dismissed both on grounds of limitation and on its merits. MA 50//2019 also stands dismissed. No order as to costs.

(R.Vijaykumar)
Member (A)

dm.

*JD
27/02/2020*

