

CENTRAL ADMINISTRATIVE TRIBUNAL**MADRAS BENCH****OA/310/01608/2018****Dated Friday ,the 7th day of August, 2020****PRESENT****Hon'ble Mr. T.Jacob , Member (A)**

S. Rajagopal,
S/o late A. Subramanian,
Formerly GDSMC, Kizhavanam BO,
Guruvarajapet SO-
Arakkonam Postal Division,

....Applicant

(By Advocate M/s P.R. Satyanarayanan)

Vs

Union of India rep by
1. Chief Postmaster General
TamilNadu Circle,
Chennai 600 002.

2. Postmaster General
Chennai City Region,
Chennai 600 002

3. Superintendent of Post Offices,
Arakkonam Postal Division,
Arakkonam 631001.

...Respondents

(By Advocate Mr. Su. Srinivasan)



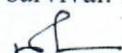
O R D E R
(Pronounced by Hon'ble Mr.T.Jacob, Member(A))

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

"i.to call for the records relating to proceedings(i) No.B2/CA/A5 dated 04.10.2013 issued by the third respondent ii) No. REP/36-60/2013 dated 14.11.2014 issued by the first respondent iii) No.REP/36-60/2013 dated 18.12.2014 issued by the first respondent (iv) No.REP/36-60/2013 dated 02.11.2017 issued by the first respondent and quash them as arbitrary and illegal and direct the respondents to reconsider the claim of the applicant for appointment under compassionate grounds by awarding due merit points as at the time consideration of the request of the applicant by Circle Relaxation Committee and appoint the applicant in any suitable GDS post in any unit under compassionate grounds and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. The brief facts of the case as submitted by the applicant are as follows:

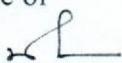
The applicant's father, late Shri A. Subramanian, while working GDSMC at Kizhvanam BO in account with Guruvarajapet SO of Arakkonam Postal Division died on 07.10.2009 due to heart attack after rendering 35 years of service. At the time of death of his father, the applicant was a minor and mother was uneducated. The applicant applied on 03.10.2011 seeking appointment as Gramin Dak Sevak (GDS) under compassionate grounds. The applicant's case was not recommended by the second respondent on the ground that he secured only 42 merit points against the minimum of 50 and, therefore, the claim of the applicant was rejected by the first respondent. The applicant's sister's husband suddenly died and as she had no other means of livelihood, she returned to parents house and she continues to be taken care of by his mother and she is therefore totally dependent on the family for survival. If



● due merit points are awarded, the applicant would be entitled to 67 merit points and would become eligible for appointment as GDS. Moreover, by Circular No.17-17/2010-GDS dated 17.12.2015 issued by Postal Department, the threshold level for GDS compassionate appointment has been reduced to 36 merit points. The applicant sought for reconsideration of his case. But the first respondent by letter No. No.REP/36-60/2013 dated 02.11.2017 rejected his request and failed to take into account the penurious circumstances of the family and also liabilities left behind by his father. Moreover, the respondents have not reconsidered the applicant's claim in the successive three years as is done in the case of regular departmental officials. Hence, the applicant has filed this OA seeking the above reliefs, inter-alia, on the following grounds:-

i. The impugned orders (i) Letters No.B2/CA/A5 dated 04.10.2013 issued by the third respondent. (ii) proceedings No.REP/36-60/2013 dated 14.11.2014 issued by the first respondent (ii) proceedings No.REP/36-60/2013 dated 18.12.2014 issued by the first respondent and (iv) proceedings No.REP/36-60/2013 dated 02.11.2017 issued by the first respondent rejecting the claim of the applicant are totally arbitrary and unreasonable.

ii. The scheme evolved for granting 'compassionate appointment' is meant for showing compassion to the family of the deceased employee who die while in harness and the rejection of the claim of the applicant without making an objective assessment of the condition of the family is violative of



the spirit of the DOPT guidelines issued in this regard.

iii. The only pre-condition for consideration for appointment under compassionate grounds is 'penury' caused by the death of his father. As per circular No.17-17/2010-GDS dated 17.12.2015 issued by the Postal Department the threshold level for determining the 'hard and deserving cases' stands reduced to 36 merit points. Further, after the death of his father, the applicant's mother, being uneducated, could not seek any appointment and the applicant was also a minor. Therefore, as per the circular dated 17.12.2015, the applicant's eligibility for appointment under compassionate grounds has to be considered with reference to the position as at the time of consideration by CRC on 13.09.2013 in the case and therefore the applicant fulfils the criterion also. Even if the yardstick prescribed by O.M No.17-17/2010-GDS dated 14.12.2010 is applied, the applicant would be entitled to 67 merit points and if due points are awarded for all attributes as described above which reveals the true nature of indigency of the family and therefore, the claim of the applicant deserves reconsideration after awarding due points for all the attributes as mentioned above and the rejection of the claim of the applicant without proper appreciation of the facts is totally arbitrary and illegal.

iv. The husband of the applicant's sister Smt.Jayanthi suddenly died on 09.02.2011 and as she had no other independent means of living, she has returned to her parents home and at the time of submitting application seeking compassionate appointment and also actual consideration of the request for

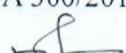


compassionate appointment by CRC on 13.09.2013, his sister was a 'widow' and she continues to be totally dependent upon his family for her survival and therefore, the applicant is eligible for award of 15 merit points under the head 'Outstanding liabilities for Education/Marriage of Dependent children'. However, no points have been awarded to under this head.

v. The applicant's father died suddenly due to heart attack and did not leave behind any healthy situation to fall back upon and the liabilities left behind by the applicant's father still remain unsettled and with no other source of income and due to the rejection of the claim of the applicant for appointment as GDS under compassionate grounds without objectively considering the financial status of the entire family and the financial liabilities left behind by the deceased person, the applicant's family is in dire financial distress.

vi. Even though the applicant's mother received Rs.61,458/- as death benefits, the family had a subsisting solid liability of Rs.40,000/- due to the loan obtained by mortgaging the house property for Rs.40,000/- and the resultant discharge benefits received by the mother of the applicant is less than Rs.25,000/- thus revealing the true indigency of the family.

3. The applicant has relied upon the following decisions in support of his contentions :
 - i. Order dt. 23.03.2018 of the Chennai Bench of this Tribunal in OA 1385/2016 in the case of N.Kumaresan Vs. UOI & ors,
 - ii. Order dt. 17.09.2018 of the Chennai Bench of this Tribunal in OA 892/2017 in the case of K. Shasidar Vs. UOI & ors,
 - iii. Order dt. 05.01.2017 of the Chandigarh Bench of this Tribunal in OA 300/2016



in the case of Sakuntala Devi & anr Vs. UOI & ors.

4. The respondents have filed a detailed reply statement in which it is stated that the Postal Directorate has prescribed a merit point system vide letter No.17-17/2010/GDS dated 14.12.2010 to judge the degree of indigence of the family, according to which points will be allocated to various attributes such as number of dependents, education of children, marriage of daughters, possession of property, left over service of the deceased, terminal benefits received etc. After a claim was received complete in all respects, the same was processed by the 3rd respondent as per scheme for engagement of GDS on Compassionate Grounds-Merit Points and Procedure for selection and revised provisions thereof in the light of the instructions contained in Postal Directorate letters No.17-17/2010-GDS dated 14.12.2010 and dated 09.03.2012 and submitted by the 3rd respondent to the Postmaster General vide letter dated 03.06.2013, who in turn, scrutinized the same and forwarded it to the office of the 1st respondent for placing the same before the Circle Relaxation Committee (CRC). The Circle Relaxation Committee considered the claim, but not approved for the reason that the applicant has not secured the minimum required merit points. As per the instructions in the Directorate letter dated 01.08.2011, the term hard and deserving cases would mean cases over and above 50 merit points. The applicant had scored only 42 merit points as required for engagement of GDS on Compassionate Grounds, as per decision of Circle Relaxation committee. The rejection of plea of the applicant for engagement of GDS under compassionate grounds by Circle Relaxation Committee was communicated to the applicant vide



⦿ SPOs, Arakkonam Division letter no. B2/CA/AS dated 04.10.2013. Smt.Nagammal wife of (late) A. Subramanian, GDSMC, Kizhavanam Branch Offices a/w Guruvarajapet Sub Office was paid Rs.61,458/- (Rs.18,000/- as ex-gratia Gratuity, Rs. 30000/- as Severance amount, Rs.13,548/- as GDS Group Insurance as terminal benefits on the death of her husband. The applicant aggrieved with the rejection of his proposal for engagement of GDS posts under compassionate grounds by the Chief Postmaster General, Tamilnadu Circle represented against awarding due merit points to him and in particular, the fact that his widowed sister Smt. Jayanthi is dependent upon him for her survival and the recorded financial liability left behind by his father. The applicant was replied by the 1st respondent that the points for education of dependent children and points for unmarried liability for widowed daughter for her subsequent marriage was issued by Directorate on 09.10.2013 whereas the case of the applicant was decided by the Circle Relaxation Committee on 13.09.2013. His subsequent representations were duly replied by the 1st respondent on the above line and he was also intimated that the cases which were already been settled would not be reopened. Hence the respondents pray for dismissal of the OA.

5. The respondents have relied on the following judgments in support of their contentions :

I. Judgment of Hon'ble Supreme Court dt. 23.05.2012 in CA No. 6224 of 2008 in the case of UOI Vs. Shashark Goswami and another,

ii. Judgment of Hon'ble Supreme Court dt. 06.04.2011 in CA No. 1045/2006 in the case of Union of India Vs. B. Kishore reported in 2012 (2) SCC (L & S) 84.



○ iii. Order dt. 18.05.2010 of Hon'ble Tribunal, Ahmedabad Bench in OA No. 398/2009,

iv. Order dt. 27.11.2009 of the Hon'ble Guwahati Tribunal in OA 75/2009,

v. Judgment of Hon'ble Supreme Court in the case of Eastern Coalfields Ltd. Vs. Anil Badyakar and others (2009 (4) SLR SC 568),

vi. Order dt. 30.04.2008 of Hon'ble Tribunal, Bombay Bench in OA 368/2006.

vii. Judgment of Hon'ble Madras High Court dt. 09.01.2018 in WP (MD) No. 20872 of 2013 in the case of P. Balasubramanian Vs. The Commissioner, Corporation of Madurai, Madurai 625002.

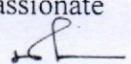
6. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.

7. The object of compassionate appointment is to provide assistance to the family of a Government servant who die in harness leaving his family in penury and without any means of livelihood and to get over the financial crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency. As per this Scheme, the family living in indigent condition and deserving immediate assistance of financial destitution is eligible for compassionate ground appointment. But it is a non statutory scheme and is in the form of concession and it cannot be claimed as a matter of right. Mere death of a government employee in harness does not entitle the family to claim compassionate appointment. The concept of compassionate appointment has been recognised as an exception to the general rule carved out in the interest of justice in certain exigencies by way of a policy of an



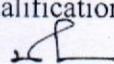
employer, which partakes the character of service rules. That being so, it needs little emphasis that the scheme or the policy as the case may be, is binding both on the employer and the employee, being an exception the scheme has to be strictly construed and confined only to the purpose it seeks to achieve. The philosophy behind giving compassionate appointment is just to help the family in harness to get over the immediate crisis due to the loss of the sole bread winner. This category of appointment cannot be claimed as a matter of right after certain period, when the crisis is over.

8. For the said purpose, a balanced and objective assessment of the financial condition of the family is made by allocating points to the applicants based on various attributes like number of dependents, outstanding liabilities for education/marriage of dependent children, left over service for discharge, own agricultural land and house, family earnings of members of family per month discharge benefits ie., Ex-gratia Gratuity, severance amount, service discharge benefits and Group Insurance benefits received by by family, educational qualification of the applicant and all other relevant factors such as the essential needs of the family including social obligations etc., in order to assess the degree of indigence of the applicants to be considered for compassionate engagement. The Department of Personnel & Training has provided for limiting compassionate appointment of wards of departmental employees to 5% of the total vacancies and no such stipulation has been made for the purpose in respect of GDS. This however, does not mean that all applicants are to be engaged as GDS on compassionate



○ grounds in relaxation of normal and only the exceptional and deserving cases are to be considered for compassionate engagement as the scheme stipulates that compassionate engagement is to be given only in indigent and deserving cases. The above system of weightage not only brings more objectivity to the method but also ensures complete transparency and uniformity in the selection process. The above method is being introduced for considering cases of compassionate engagement to the dependents of the GDS in the even of death of the bread winner. The term "hard and deserving cases" would mean cases over and above 50 merit points. Moreover by circular no. 17-17/2010-GDS dt. 17.12.2015 issued by Postal Directorate, the threshold level for GDS compassionate appointment has been reduced to 36 merit points. Further by circular no. 17-1/2017-GDS dt. 30.05.2017 a revised scheme for compassionate engagement of an eligible dependent of deceased Gramin Dak Sevaks was introduced and under the revised scheme point system has been dispensed with and scheme has been extended to dependents of missing GDS also.

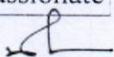
9. In the instant case, the applicant's father died on 07.10.2009. At the time of his death, he was survived with his wife, one minor son aged 16 years and three daughters. The wife of the deceased Government employee was paid Rs.61,458, Rs.18,000 as Ex-gratia gratuity, Rs.30000/- as Severance amount, Rs.13,548 as GDS Group Insurance as terminal benefits on the death of her husband. The applicant's mother while seeking appointment on compassionate ground to her son (the applicant herein), has herself stated that all the three daughters are married and she is residing with her only minor son who was studying SSLC. She has an education qualification



of VIII std., After the applicant attained majority, the applicant's mother submitted another representation dated nil (received by the office administration on 24.08.2011) seeking compassionate ground appointment to her son instead of herself. After considering all aspects, the applicant was awarded 42 points as against 50 Relative Merit Points as required under the Scheme for engagement of GDS on compassionate grounds without awarding points for certain other attributes, it is contended..

10. For the sake of brevity and better appreciation of the facts, the details of the weightage points to the applicant under each head are reproduced hereunder:

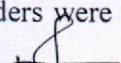
Sl. No.	Description	Details	RMP allotted	Remarks
1	No. of Dependents	3	7	At the time of the death of the GDS, the applicant is minor residing with his mother and her daughter Smt. Jayanthi was married. No merit points are allotted for the attribute of widowed daughters. Hence, RMP allotted as 7 for taking number of dependents as 2.
2	Outstanding liabilities for Education/ Marriage of Dependent Children	For Education of Minor Son	0	The applicant has applied for the GDS post after attaining majority and he has not stated that he had discontinued his ITI course and no documents in connection with his joining/discontinuing of his ITI course was provided by the applicant, till date. Hence, no merit points were awarded.
		For marriage of daughters	0	Dte. Letter no. 17-17/2010-GDS dated 09.10.13 containing specific instructions on points for education of dependent children at the time of death of the deceased GDS and points for unmarried liability for widowed daughter for her subsequent marriage was issued only on 09.10.13, which was communicated lately, and proposal for compassionate



				appointment was sent to Postmaster General, Chennai City Region on 03.06.2013, hence no merit points was awarded.
3	Left over service	Less than 5 years	2	
4	Own agricultural land and house		5	
5	Family earnings of Members	Income details	8	Income certificate for Rs. 12,000/- p.a. Issued by VAO, Arakkonam Taluk dated 29.06.2012, hence merit points was awarded towards the attribute of family earnings.
6	Discharge benefits received	Rs. 61458/-	20	Rs. 18000/- as ex-gratia gratuity Rs. 30000/- as Severance amount Rs. 13548/- as GDS Group Insurance
	Total		42	

11. It is the contention of the applicant that the Circle Relaxation Committee while considering the claim of the applicant compassionate grounds has failed to take into consideration the dependency factor of Smt Jayanthi, the widowed daughter of the applicant for her survival and the recorded financial liability left behind by her husband leading to grant of less Relative Merit Points. If the Relative Merit Points had been awarded taking into consideration the above two attributes, the applicant would have secured more points and would have become eligible for appointment on compassionate grounds.

12. The respondents on the other hand would submit there was no provision for awarding merit points at the time of consideration of the claim and the orders were

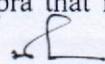


subsequently received ie points for unmarried liability for widowed daughter for her subsequent marriage was issued on 09.10.2013 whereas the case of compassionate appointment was decided by CRC on 13.09.2013. With regard to mortgage of house property for Rs.40,000/- the applicant has not given any details or records towards liability left behind her husband at the time of submission of her claim for appointment on compassionate ground as GDS. Therefore, the Relative Merit Points were awarded based on the information received at that time.

13. The applicant has produced a copy of the order of this Tribunal passed in OA.892/2018 dated 17.09.2018 wherein reference has been made to the communication of the Ministry of Communications & IT dated 17.12.2015 by which the threshold for hard and deserving cases was reduced to 36 points in place of the existing 51 points. In yet another OA.1385/2016 dated 23.03.2018 referred to by the applicant, this Tribunal has observed as follows:-

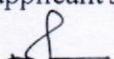
“It is not in dispute that the applicant's case had been rejected by the competent authority in the year 2016 on the ground that the applicant had not obtained sufficient relative merit point to qualify for appointment. Now a revised scheme has come into operation with prospective effect which also provides that cases already settled shall not be reopened. Therefore, the question of respondents being directed to re-consider the 2016 rejection of the applicant's claim in terms of the revised scheme does not arise. However, the right of the applicant to be considered again in subsequent years is not taken away.”.

14. I have considered the matter. I feel there is some merit in the contention of the applicant that if the points for widowed daughter for her subsequent re marriage had been taken into account, the applicant would have become eligible for compassionate appointment. This Tribunal has also observed in the OAs referred to supra that in



terms of the communication of the Ministry of Communications & IT dated 17.12.2015 the threshold for hard and deserving cases was reduced to 36 points. Further the rejection of the applicant's claim in terms of the revised scheme does not arise and the right of the applicant to be considered again in subsequent years is not taken away.

15. It is not in dispute that the applicant's case had been rejected by the first respondent by proceedings No.REP/36-60/2013 dated 02.11.2017 issued in the year 2017 on the ground that the applicant had not obtained sufficient relative merit point to qualify for appointment. Now a revised scheme has come into operation with effect from 30.05.2017 with prospective effects which also provides that cases already settled shall not be reopened. Therefore, the question of respondents being directed to re-consider the 2017 rejection of the applicant's claim in terms of the revised scheme does not arise. However, the right of the applicant to be considered again in subsequent years is not taken away. The purpose of such consideration for subsequent years is to have the merits re-examined and contrasted with other cases of such subsequent years. In that process, if the number of dependents is altered the same too has to be taken into consideration. Thus, in the instant case addition of the widowed sister of the applicant has increased the number of dependents. Considering the fact that the applicant's case would have been considered again in the subsequent years in terms of the points system but for the revised scheme and since the revised scheme dated 30.05.2017 has been made (wherein the point system has been dispensed with) applicable to all cases arising on or after the said date, the applicant's



right to be considered in the year 2017 and 2018 would be deemed to be covered by the said order. Otherwise while wholly new claimants would be considered in terms of the revised scheme, all the previous applicants would be considered in accordance with the points system and it would be difficult to determine who deserved greater compassion in terms of the financial condition of the family.

16. Moreover, the scheme for compassionate appointment is meant to relieve the family of the GDS concerned from financial destitution and to help it to get over the emergency" as stated in the scheme dated 30.05.2017. When the revised scheme dated 30.05.2017 came into force and applicant's case had not been disposed of and the case of the applicant deserves to be considered keeping in view the above objective of the scheme.

17. Having regard to the above facts and circumstances of the case and the observations made herein above, the proceedings (i) No.B2/CA/A5 dated 04.10.2013 issued by the third respondent (ii) No.REP/36-60/2013 dated 14.11.2014 issued by the first respondent (iii) No.REP/36-60/2013 dated 18.12.2014 issued by the first respondent and (iv) No.REP/36-60/2013 dated 02.11.2017 issued by the first respondent are hereby set aside and quashed. The respondents are directed to consider the claim of the applicant for the subsequent years in terms of the revised scheme and take an appropriate decision consistent with the letter and spirit of the scheme as and when such appointments are considered.

18. The OA is allowed to the extent indicated above. No costs.