

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/1076/2019

HYDERABAD, this the 7th day of January, 2021

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



1. B. Syamala, Gr.C,
W/o. Late. Shri B. Jagan Mohana Rao,
Aged about 49 years,
R/o. Door No.1-81, Seetha Gardens,
Sanivarapu Peta, Eluru – 534 003,
West Godavari District, Andhra Pradesh.
2. Shri B. Sai Raghavendra Satyanarayana,
S/o. Late. Shri B. Jagan Mohana Rao,
Aged about 25 years, R/o. Door No.1-81,
Seetha Gardens, Sanivarapu Peta,
Eluru – 534 003, West Godavari District,
Andhra Pradesh.

...Applicants

(By Advocate : Sri G. Jaya Prakash Babu)

Vs.

1. Union of India rep. by its
Secretary,
Ministry of Communications &
Information Technology,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi – 110 001.
2. The Chief Post Master General,
Andhra Pradesh Circle, Vijayawada.
3. The Postmaster General,
Vijayawada Region,
Vijayawada – 520 003,
Andhra Pradesh.
4. Sr. Superintendent of Post Offices,
Eluru Division, Eluru – 534 007,
West Godavari District,
Andhra Pradesh.

....Respondents

(By Advocate: Sri A. Ram Mohan, Addl. CGSC)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed for grant of compassionate appointment.
3. Brief facts are that the husband of the 1st applicant passed away while working as Postal Assistant in respondents organisation on 9.6.2015 and therefore, she sought compassionate appointment to the 2nd applicant who is the son of the deceased employee. As the compassionate appointment was not granted, the OA is filed.
4. The contentions of the applicant are that the family is living in penurious conditions. There is no time limit for considering compassionate appointment. The point system in evaluating compassionate appointments has been withdrawn. The comparative analysis of the cases considered has not been given. The 2nd applicant is eligible for compassionate appointment and rejecting the request made is illegal as well as violative of Articles 14 & 16 of the Constitution. Several representations were made but of no avail.
5. Respondents in their reply statement state that the case of the 2nd applicant was considered on 6 occasions and on grounds of relative merit, coupled with, limited vacancies, compassionate appointment could not be offered. Action has been taken as per prevailing rules.
6. It is not in dispute that the husband of the 1st applicant passed away on 9.6.2015 while working for the respondents organization as Postal Assistant. As per rules of the respondents organization, Compassionate



appointment is limited to 5% of the DR vacancies arising in a year and candidates are considered for these vacancies based on relative merit. The case of the 2nd applicant, who passed intermediate, was considered on 31.1.2017, 6.11.2017, 16.1.2018, 5.2.2018, 24/25.7.2018 & 8/9.7.2019. On all the 6 occasions, the case of the 2nd applicant could not be considered for reasons of relative merit and limited number of vacancies and he was duly informed. The respondents were considerate in considering the case of the 2nd applicant on many occasions. However, the rules have to be followed and in accordance with the same applicant did not figure within the zone of selection which is related to the number of vacancies available. The point system was dispensed for compassionate appointment to the Grameen Dak Sewak cadre and not for the Group C cadre. The relative merit is worked out on the points secured and the rank of the 2nd applicant was never within the number of the vacancies available and therefore, had to be rejected on multiple occasions. Ld. Counsel for the applicants prayed for directing the respondents, to reconsider the case one more time as a last opportunity.

II. It is seen that the employee died in 2015 and the family is able to sustain itself all these years. The family is getting a family pension of Rs.24,634 plus allowances. Terminal benefits to the extent of Rs.10.40 lakhs were released to the family of the deceased. Compassionate appointment cannot be sought as a matter of right. This Tribunal in OA 1024/2018 on 17.6.2019 has observed as under:

"7. I) As seen from the records and the submissions made the request of the applicant was considered on 6 occasions and rejected based on merit and lack of vacancies. On each and every occasion whenever the applicant represented though few years lapsed, respondents have been liberal and sympathetic in considering the request but had to reject as per norms of relative merit and the

limitation of 5% of vacancies earmarked for compassionate recruitment. Compassionate appointment is not a bonanza nor a right to claim persistently till it is fructified. xxx

II. Thus, as can be seen from the above, respondents have followed the rules and after considering the request on several occasions rejected on valid grounds. OA is devoid of merits on rules and law. Hence is dismissed with no order as to costs. ”



III. The case of the 2nd applicant is fully covered by the above judgment. Besides, Hon'ble Supreme Court has consistently observed that the compassionate appointment has to be granted to the family of the deceased who are living in indigent circumstances and that it is not a right to be claimed, in a catena of judgments as under:

i) ***National Hydroelectric Power Corp. Vs. Nanak Chand, (2004)***

12 SCC 487, at Page 490:-

“6. As was observed in State of Haryana and Ors. v. Rani Devi & Anr. (JT 1996 (6) SCC 646), it need not be pointed out that the claim of person concerned for appointment on compassionate ground is based on the premises that he was dependant on the deceased employee. Strictly this claim cannot be upheld on the touchstone of Articles 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. That is why it is necessary for the authorities to frame rules, regulations or to issue such administrative orders which can stand the test of Articles 14 and 16. Appointment on compassionate ground cannot be claimed as a matter of right”

ii) ***Hindustan Aeronautics Ltd v. A. Radhika Thirumalai, (1996) 6***

SCC 394, at page 396:

“5. In Umesh Kumar Nagpal [Supra] this Court has pointed out that appointment in public services on compassionate ground has been carved out as an exception, in the interest of justice, to the general rule that appointments in the public services should be made strictly on the basis of open invitation of applications and merit and no other mode of appointment nor any other consideration is permissible. A compassionate appointment is



made out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided the family would not be able to make both ends meet and the whole object of granting such appointment is to enable the family to tide over the sudden crisis. This court has also laid down that an appointment on compassionate ground has to be given in accordance with the relevant rules and guidelines that have been framed by the concerned authority and no person can claim appointment on compassionate grounds in disregard of such rule or such guideline [see : [Life Insurance Corporation vs. Asha Ramchandra Ambekar](#)(supra)] ”.

iii) ***LIC v. Asha Ramachandra Ambekar, (1994) 2 SCC 718, Page 721:***

“The courts should endeavor to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done. In the very case itself, there are regulations and instructions which we have extracted above. The court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the circular dated January 20, 1987 interdicts such an appointment on compassionate grounds. The appellant Corporation being a statutory Corporation is bound by the [Life Insurance Corporation Act](#) as well as the Statutory Regulations and Instructions. They cannot be put aside and compassionate appointment be ordered.”

IV. In view of the SC judgments referred to above and this Tribunal verdict cited supra plus keeping in view the fact that the case of the 2nd applicant was re-considered on several occasions by the respondents and could not be granted for reasons of relative merit and limited vacancies, we are of the view that there is no merit in the OA and hence is dismissed with no order as to costs.

(B.V.SUDHAKAR)

ADMINISTRATIVE MEMBER

(ASHISH KALIA)

JUDICIAL MEMBER

/evr/