



**CENTRAL ADMINISTRATIVE TRIBUNAL
BENGALORE BENCH, BENGALORE**

ORIGINAL APPLICATION NO.170/777/2019

RESERVED ON: 05.03.2021

DATE OF DECISION: 03.06.2021

CORAM:

**HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)
HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)**

(THROUGH VIDEO CONFERENCE)

Between:

Kumari K. S. Vidyashree, age 19 years, S/o Late K.C. Sheshachala, Ex. GDS
BPM, Kanaganahalli, B.O.-571455, Mandya District, Residing at:
Kanaganahalli-571455, Mandya District.

....Applicant

(By Advocate Shri P. Kamalesan – through video conference)

And:

1. Union of India, represented by Secretary, Department of Post, Dak Bhavan, New Delhi-110001.
2. Chief Post Master General, Karnataka Circle, Bangalore-560001.
3. Post Master General, S K. Region, Bangalore-560001.
4. Superintendent of Post Offices, Mandya Postal Division, Mandya-571401.

.....Respondents

(By Advocate Shri N.B. Patil – through video conference)

ORDER

PER: SURESH KUMAR MONGA, MEMBER (J)

Pleaded case of the applicant herein is that her father Sri K. C. Seshachala had been working as GDS at Kanaganahalli Branch Office and



unfortunately he while in services of the respondents expired on 30.09.2013 leaving behind two daughters and wife. At that time the applicant was a minor as she had attained the age of 13 years on that date. She passed her SSLC examination in the year 2015 and became eligible for appointment to the post of GDS. It has further been pleaded that the applicant and her mother were the only members in the family and they were struggling to live a normal life as there was no other source of income in the family. Applicant's sister K.S. Nityashree, being married, was residing separately. Her sister had applied for the post of GDS and was selected on her own merit on 15.06.2015.

2. The applicant herein, after attaining the age of majority submitted an application for appointment to the post of GDS on 19.02.2018 on compassionate grounds. However, her said application has been rejected by the Post Master General, Karnataka Circle, Bangalore vide letter dated 12.06.2019 on the ground that one of the family member is working as GDS BPM. Aggrieved by the said communication, the applicant has preferred present Original Application under Section 19 of the Administrative Tribunals Act, 1985.

3. The respondents by way of filing a joint reply have joined the defence and opposed the applicant's claim stating therein that her father had been working as Gramin Dak Sewak Branch Postmaster since 01.02.1992 and he expired while in service on 30.09.2013 after serving for about 21 years. He was survived by his wife and two unmarried daughters. His elder daughter Kumari Nithyashree was 18 years old and the applicant herein Kumari Vidhyashree was 14 years old at the time of his death. His first daughter Kumari Nithyashree had submitted application for appointment on compassionate grounds on 23.02.2015. In the meantime, Smt. Parvathamma



wife of the deceased Govt. Servant vide her letter dated 26.10.2015 had informed that Kumari Nithyashree has been appointed as Branch Post Master on 30.06.2015 at Mallinathapuram Branch Post Office and requested for compassionate appointment to her second daughter Kumari Vidhyashree (the applicant herein) after attaining the age of 18 years. The said application was forwarded by respondent No.4 to respondent no.3 on 29.10.2015. It has further been averred that Kumari Vidhyashree (the applicant herein) submitted her application for appointment on compassionate grounds to respondent no.4 on 02.08.2018 after attaining the age of 18 years. The said application was examined by the Committee on Compassionate Engagement in the meeting held on 09.04.2019 and the applicant's case was not recommended for appointment on the ground that the elder daughter of the deceased was unmarried at the time of his death and she got appointment as GDS subsequently before her marriage. The fact as pleaded by the applicant that the family was facing severe economic hardship, has been specifically denied by the respondents. The respondents while referring to a judgment of the Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal Vs. State of Haryana**, 1994 (4) SCC 138 have further stated that the applicant's case for grant of appointment on compassionate grounds has been rightly declined. With these assertions, the respondents have prayed for dismissal of the Original Application.

4. Heard learned counsels for the parties.

5. Sh. P. Kamalesan, learned counsel for the applicant submitted that on 09.04.2019 when the applicant's case was considered by the Committee on Compassionate Engagement, at that time the elder daughter of the deceased Govt. Servant was not a member of the family as she got married on



08.12.2016 and, therefore, the applicant's request for grant of employment on compassionate grounds has been illegally and arbitrarily declined by the respondents. Learned counsel further submitted that the communication dated 12.06.2019 (Annexure A-4) declining the applicant's request for compassionate appointment cannot be sustained.

6. Per contra, Sh. N.B. Patil, learned counsel for the respondents submitted that the applicant's request for grant of employment on compassionate grounds has been rejected in view of the principles laid down by the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal (supra).

7. We have considered the rival contentions of learned counsels for the parties and have also perused the record of the case.

8. Admittedly, the applicant's father, who had been working as GDS with the respondent organization, died while in service on 30.09.2013 leaving behind two unmarried daughters and the widow. His elder daughter Kumari Nithyashree was 18 years old and younger daughter Kumari Vidhyashree (the applicant herein) was 14 years old at the time of his death. Initially, his elder daughter Kumari Nithyashree had submitted an application for appointment on compassionate grounds before the respondents on 23.02.2015. Before any decision could be taken on the said application, the applicant's mother Smt. Parvathamma vide her letter dated 26.10.2015 had informed the respondents that her first daughter Kumari Nithyashree has been appointed as Branch Post Master on 30.06.2015 at Mallinathapuram Branch Post Office and requested for compassionate appointment to her second daughter Kumari Vidhyashree (the applicant herein) after her attaining age of 18 years.

9. After a period of more than 05 years from the death of deceased Govt. Servant, the applicant herein requested the respondents for grant of



employment on compassionate grounds. The said request was examined by the Committee on Compassionate Engagement in a meeting held on 09.04.2019 and while noticing the fact that the elder daughter of the deceased was unmarried at the time of his death and she got appointment as GDS before her marriage, the said Committee did not recommend the applicant's case for appointment on compassionate grounds and accordingly, the respondents vide their communication dated 12.06.2019 (Annexure A-4) declined the applicant's case.

10. We do not find any fallacy in the decision taken by the respondents declining the applicant's case for appointment on compassionate grounds as the whole objective of grant of appointment on compassionate to a dependent of the deceased employee is to enable the family to tide over sudden financial crisis because of the death of the bread earner in the family. The objective is not to give a post to a family member in place of a Govt. employee. In our considered view, mere death of an employee in harness does not entitle his family to the benefit of such an employment.

11. There is no dispute with regard to the fact that the applicant's elder sister Kumari Nithyashree had got the employment when she was unmarried and was a member of the family. Subsequently, after her marriage, no right accrues in favour of the applicant herein to seek employment on compassionate grounds. We also cannot ignore the fact that the applicant herein had submitted her application for compassionate appointment after a period of more than 05 years from the death of her father. Since the family could tide over the hardships during all this period, no fallacy can be found in the respondents' decision declining the applicant's case for grant of compassionate appointment.



12. The Hon'ble Supreme Court in the case of Umesh Kumar Nagpal (supra) has ruled that the appointments in public service should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post.

13. The principles laid down by the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal (supra) have been followed consistently by the Courts and this Tribunal. Recently, in the case of **State of Himachal Pradesh vs. Shashi Kumar** 2019 (3) SCC 653, the Hon'ble Supreme Court, while summarizing the law on the subject has again reiterated those principles. By now it is well established principle that the compassionate appointment is not a source of recruitment and it is made to provide succour to the family of an employee who dies in harness.

14. In the facts and circumstances which have emerged in the case in hand, we do not find any fault with the respondents' decision declining the applicant's case for appointment on compassionate grounds and therefore, the present Original Application deserves to be dismissed.

15. Accordingly, the Original Application is hereby dismissed.

16. However, there shall be no orders so as to costs.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)

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