



**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE  
ORIGINAL APPLICATION NO.170/01115/2019**

ORDER RESERVED ON 08.07.2021

DATE OF ORDER: 03.09.2021

**CORAM:**

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

(On video conference from Central Administrative Tribunal, Chandigarh Bench, Chandigarh)

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

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

Syed Subhan

Age: 35 years

S/o Late Abdul Rahiman

Ex GDS BPM

Hedagapur BO-585436

Bidar District

At post: Hedagapur P.O.-585436

Bidar District.

....Applicant

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

Vs.

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

N.K.Region

Bangalore-560001.

4. Superintendent of Post Offices

Bidar Postal Dn

Bidar-585401.

.....Respondents

(By Advocate Shri Syed S.Kazi – through video conference)



## **ORDER**

**PER: RAKESH KUMAR GUPTA, MEMBER (A)**

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:
  - i. Quash the Chief Post Master General, Karnataka Circle, Bangalore-560001 letter No. R & E/2-6/1276/2019 dated: 12.6.2019 vide Annexure-A4.
  - ii. Consequently, direct the respondents to reconsider the applicant's application for compassionate appointment.
2. The facts of the case as pleaded by the applicant are as follows:
  - a) The applicant's father Syed Abdul Rahman was appointed as GDS BPM from 4.7.1981 at Hedagapur BO at Bidar Postal Division and expired on 15.12.2017.
  - b) The applicant submits that Superintendent of Post Offices, Bidar Division, Bidar vide letter No.B-3/PF/Hedgapur BO/2017 dated: 09.01.2018 intimated to Smt.Putlibee W/o Late Syed Abdul Rahman regarding the provisions for compassionate appointment in the department.
  - c) The applicant submitted a representation on 24.01.2018 requesting the respondents to provide compassionate appointment vide Annexure-A3.
  - d) The Chief Post Master General, Karnataka Circle, Bangalore vide letter No.R&E/2-6/1276/2019 dated 12.06.2019, rejected the request for compassionate appointment on the ground that 'left over service is less than one year and there are no liabilities such as education of children. The family is not considered to be "financially indigent" (Annexure-A4).



- e) The applicant submits that he is having educational qualification for the GDS BPM post. The certificate issued by Karnataka Secondary education Examination Board and Certificate issued by Department of Pre University Education is produced as Annexure-A5.
- f) The applicant submits that scheme of compassionate appointment is a welfare measure, to meet the immediate financial crisis of the deceased family. Therefore, the compassionate appointment cannot be rejected on the ground that the deceased employee's left-over service is less than a year. Therefore, the rejection is arbitrary and without application of mind.
- g) The applicant submits that at the time of death of his father, one son and one daughter was unmarried. And the family was having financial liabilities towards other 4 daughters' marriage. The deceased employee was having 5 daughters and 3 sons and there was no required income to the family to maintain such a huge family.
- h) The applicant submits that the respondents, without having any data, arrived at the conclusion that the family is not considered to be financially indigent.
- i) The applicant submits that the scheme of compassionate appointment is a welfare measure to meet the immediate financial relief to the deceased employee's family needs and therefore rejecting it on the ground that "the left over service is less than a year" is against the concept of compassionate appointment scheme.



j) Therefore, rejection of compassionate appointment, without effectively assessing the family's indigence is arbitrary and illegal. Hence, the OA.

3. The respondents in their reply statement have averred as follows:

- a) Sri Mulla Abdul Rahman Ex GDS BPM, Hadagapur BO, a/w Thanakushnoor SO under Bidar Division expired on 15.12.2017 leaving behind wife, 03 sons (02 married & one unmarried) & 5 daughters (4 married and 1 unmarried). Shri Mulla Abdul Rahiman had rendered 36 years 5 months service with left over service of only 22 days. Shri Syed Subhan, son (married) of the deceased has requested for engagement on compassionate grounds for himself.
- b) The family of the deceased GDS is residing in their own house. Value of house is Rs.60,000/- to 90,000/-. The family of the deceased is also having 35.08 Guntas landed property and value of the land is Rs.3,78,864/-. Further, the family of the deceased is not having any liability of education of children.
- c) The CCE which met on 09.04.2019, taking all the factors into account, decided not to recommend the case for engagement as GDS on compassionate grounds for the reasons that '*left over service is less than one year (i.e. 22 days only). There is no liability such as education of children. The family is not considered to be financially indigent*'. All financial benefits that were due to Ex GDS on attaining 65 years have been paid to the family and the family is considered to be not financially indigent.



- d) At the time of death of the applicant's father, the applicant was married. Apart from him, his 5 siblings were also married i.e. 1 brother and 4 sisters. On the date of death of the applicant's father, he was left with only 22 days of service. Whatever terminal benefits would have accrued on his regular terminal, the same amount of Rs.1,08,375/- has been paid to the applicant's family after the death of his father. The amount in SDBS scheme was awaited and it will be directly credited to the mother of the applicant(nominee). Hence the applicant cannot say that his family is in destitution. The applicant's family has 35.08 Guntas of agriculture land which was worth of Rs.3,78,864/- i.e. Rs.4,32,000 per acre as per State Government valuation as on 31.01.2019 (as submitted by applicant while submitting compassionate engagement papers) and the applicant has own house in his village. Therefore, in view of the facts submitted above, it is amply clear that the applicant is neither in financial destitution nor in indigency.
- e) The CCE had screened the application of the applicant along with other 32 candidates in their meeting held on 09.04.2019. The CCE has correctly screened the application of the applicant, and rejected his candidature.
- f) The main aim of the compassionate engagement as per para 5(a) of guidelines is to provide the family immediate assistance of relief from financial destitution and to help the family of the deceased to get over from emergency.



g) This Tribunal has dismissed a similar case filed by Chand S/o Late Mehboob Ali of Kalaburagi Division in OA.No.170/475/2019 dated 06.01.2020(Annexure-R2). The case in the said OA is similar as in the present OA. In the said OA, the applicant's father was left with only 9 months service on the date of his death.

4. Heard the learned counsels for the parties.
5. The Department of Personnel & Training, Government of India had issued consolidated Instructions on compassionate appointment vide OM No: 14014/02/2012--Estt. (D) dated 16<sup>th</sup> January, 2013. In these guidelines it has been clearly stated that *"the object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency"*.
6. The revised scheme for compassionate engagement issued by the Department of Posts vide No: 17-1/2017-GDS dated 30<sup>th</sup> May 2017 also clearly specify that *the object of the Scheme is to grant engagement on compassionate grounds to a dependent family member of a Gramin Dak Sevak dying while in service as a GDS, to relieve the family of the GDS concerned, from financial destitution and to help it to get over the emergency. While considering such requests, the competent authority has to keep in mind the fact that the concept of compassionate appointment is largely meant to meet immediate financial assistance in order to relieve the family from economic distress.*

7. Hon'ble Supreme Court of India in **Umesh Kumar Nagpal vs State Of Haryana**

{(1994) 4 SCC 138}, dated 4<sup>th</sup> May 1994, has observed as follows:

*“The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services 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. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, 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, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment, which are suddenly upturned.”*







8. The Hon'ble Supreme Court of India, in the case of **State of Himachal Pradesh vs Shashi Kumar**, {(2019) 3 SCC 653}, dated 16 January, 2019, has, besides reiterating the principles laid down in the judgment in case of **Umesh Kumar Nagpal** *supra*, has further observed that:

*“In all the matters of compassionate appointment it must be noticed that it is basically a way out for the family which is financially in difficulties on account of the death of the breadearner. It is not an avenue for a regular employment as such. This is in fact an exception to the provisions under Article 16 of the Constitution. That being so, if an employer points out that the financial arrangement made for the family subsequent to the death of the employee is adequate, the members of the family cannot insist that one of them ought to be provided a comparable appointment.”*

9. The facts of the case, as revealed from the pleadings submitted by both the applicant as well as the respondents, indicate that the applicant's father expired on 15.12.2017 leaving behind his wife, 3 sons and 5 daughters after rendering 35 years and 5 months of service with left over service of only 22 days. The applicant who is the married son of the deceased has requested for providing compassionate appointment for himself. As revealed from the records, the applicant's family has agriculture land of 35.08 guntas worth Rs.3,78,864/-. The family was also paid the full terminal benefits which would have been due to the deceased employee on his retirement. All the sons and daughters are grown up and there is no liability of educational expenses of any child.

10. Hence, keeping all the above facts under consideration, the view taken by the Committee on Compassionate Engagement (CCE), in not considering the family as financially indigent, appears to be reasonable. The respondents have, therefore, rightly not considered the applicant's case as a fit case deserving compassionate





appointment. Keeping the above in view, the OA being devoid of any merit is liable to be dismissed.

11.The OA is accordingly, dismissed.

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

**(RAKESH KUMAR GUPTA)**  
**MEMBER (ADMN)**

**(SURESH KUMAR MONGA)**  
**MEMBER (JUDL)**

/ps/