

Counsel for the Respondents ...Mr. K. Venkateshwarlu, Addl. CGSC

CORAM:***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)*****ORAL ORDER*****{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }***

2. The OA is filed for not considering the case of the applicant for compassionate appointment.
3. Applicant's father while working for the respondents organisation as Branch Post Master (BPM) died in harness on 21.8.2015. Being eligible, applicant made a request for compassionate appointment which was rejected on 26.9.2016. Aggrieved the present OA.
4. Contentions of the applicant are that he has no land or house and that his case could be considered based on the latest guidelines wherein the point system has been dispensed with. The allotment of marks to different attributes is not based on proper assessment. The impugned order is not a speaking or a reasoned order.
5. Respondents resist the contention of the applicant stating that the Circle relaxation Committee met on 28/29.7.2016 and rejected the request for compassionate appointment on grounds that the applicant has secured only 25 marks against a minimum of 36 marks. Applicant has land and kutchha house and marks were accordingly allotted.

Residency in the village is essential and it is not compulsory to own a house in the base village. Nearly Rs 1,50,000 terminal benefits were released to the family of the deceased employee. Respondents cited the judgment of Hon'ble Apex Court in **MGB Gramin Bank v Chakrawarti Singh [Civil Appeal No.6348/2013 dated 07.08.2013]** where it is held that compassionate recruitment is offered to overcome the sudden crisis in the family due to the sudden demise of the bread earner and that it should not be claimed as a matter of right.

6. Heard both the counsel and perused the material papers placed on record.

7. I) The submissions of the applicant in regard to the allotment of marks to different attributes to assess consideration for selection, is beyond the domain of this Tribunal as it is a policy matter. Respondents have allotted marks based on certificates and on verification regarding land and house possessed by the applicant. Regarding the residency clause in the village, it is not spelt out that it is a necessary condition for the prospective applicant to own a house in the village. Therefore, it is clear that the respondents processed the case as per norms.

II) However, while issuing the impugned order they have erred by stating that he got only 25 marks against 36 marks required. The marks allotted to each of the attribute should have been indicated so that

there would be transparency as to whether the marks were allotted as per norms. Besides, those selected and the marks obtained by them were not indicated so that the applicant would know his position vis a vis others. We are in the era of Right to information. Respondents need to have displayed the details of the selection in the above public domain suo motto, as required under RTI act. Nevertheless, it may be done at least in future by providing the requisite information as suggested to minimise scope for unnecessary litigation.

III) Reverting to the case on hand, the Impugned order being a non speaking and not a reasoned order, it is contrary to the legal principle of basing a decision on sound reasoning as observed by Hon'ble Supreme Court in **Union Of India & Ors** vs **E.G. Nambudiri** on 23 April, 1991, Equivalent citations: 1991 AIR 1216, 1991 SCR (2) 451

“Though the principles of natural justice do not require reasons for decision, there is necessity for giving reasons in view of the expanding law of judicial review to enable the citizens to discover the reasoning behind the decision. Right to reasons is an indispensable part of a sound system of judicial review. Under our Constitution an administrative decision is subject to judicial review if it affects the right of a citizen, it is therefore desirable that reasons should be stated.”

Besides, Hon'ble High Court of Jharkhand in Jit Lal Ray v. State of Jharkhand, WP(C) No. 469 of 2019, decided on 26-04-2019, has categorically stated that a non reasoned order is not valid in the eyes of law, as under:

"It is settled position of law that a decision without any reason will be said to be not sustainable in the eyes of law, because the order in absence of any reason, also amounts to the violation of the principles of natural justice."

Therefore, the impugned order dated 26.9.2016 is quashed. Consequently, respondents are directed to reconsider the case of the applicant based on the guidelines prevailing at the time of the meeting of the CRC and issue a speaking and a well reasoned order within a period of 3 months from the date of receipt of this order. There shall be no order as to costs.

With the above directions the OA is disposed of.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 26th day of June, 2019

nsn