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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 862 of 2012
Cuttack, this the 21st day of November, 2014

Jugesh Behera Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? No
2. Whether it be referred to PB for circulation? No

(R.C.MISRA)
Member (Admn.)

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(26)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

Original Application No. 862 of 2012
Cuttack, this the 21st day of November, 2014

**CORAM
HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)**

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Jugesh Behera,
aged about 43 years,
S/o. Late Chandramani Behera,
Ex-GDSBPM of Dimagadia,
Vill/Post- Dimagadia, Via- Radho,
Dist. Mayurbhanj, Odisha, 757101.

...Applicant

(Advocates: Mr. P.K.Padhi)

VERSUS

Union of India Represented through

1. Director General of Posts,
Dak Bhawan,
New Delhi-110116.
2. Chief Post Master General,
Odisha Circle, At/PO-Bhubaneswar
Dist- Khurda, 751001.
3. Superintendent of Post Offices,
Mayurbhanj Division, At/PO-Baripada,
Dist- Mayurbhanj, Odisha, 757001.

...Respondents

(Advocate: Ms. S. Mohapatra)

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ORDER

SHRI R.C.MISRA, MEMBER (ADMN.) :

The applicant, in the present O.A., has approached this Tribunal making a prayer that the Respondents may be directed to reconsider his case for providing the compassionate appointment in any GDS post except the GDS BPM by quashing the order of the Respondents at Annexure-A/4 dated 11.01.2012.



2. The short facts of this case are that the applicant's father expired on 22.02.2009 while working as GDS BPM of Dimagadia Branch Post Office in account with Radho Sub Post Office in Mayurbhanj Division of the Department of Posts. At the time of his death, he left behind his widow, the applicant and his young brother and three married daughters. After the death of his father, the applicant made a representation to the Respondents for consideration of his case for providing compassionate appointment in relaxation of the normal Recruitment Rules. The applicant had read up to Class-IX and was eligible for all types of GDS posts except GDS BPM. The case of the applicant was considered by the Respondents in the meeting of the CRC on 12.12.2011. The CRC did not recommend the case and the order of rejection in respect of compassionate appointment was communicated to the applicant in a letter dated 11.01.2012, which is under challenge in this O.A. The CRC held on 12.12.2011 rejected the case of the applicant on the ground that he failed to score 50 merit points and, therefore, in the present O.A. the applicant has prayed for reconsideration of his case by the CRC. It is submitted in the O.A. that after the communication of the letter dated 11.01.2012 the case was, however, considered in another CRC and again it was not recommended.

3. Respondents have filed their counter affidavit in the case in which they have submitted that the applicant did apply for appointment on compassionate ground after the death of his father on 22.02.2009. His case was taken up and considered by the CRC in the meeting held on 12.12.2011 as per the extant guidelines. The Department of Posts vide a memo dated 14.12.2010 has worked out a system of allocation of points to be given to various attributes based on a 100 point scale. As per the further instruction of the Department of Posts dated 01.08.2011 the compassionate appointment

will be given to hard and deserving cases and such cases will be decided on the basis of the merit points being more than 50. The present applicant, whose case was considered by the CRC on 12.12.2011, scored only 27 relative points out of a total of 100 and since he had secured less than 50 merit points his case was rejected. After consideration of his case on 12.12.2011 a modified procedure has been introduced by the Postal Directorate in their letter dated 09.03.2012. In the new procedure the point for educational qualification has been abolished and it was instructed that all the cases which were rejected by the CRC based upon the earlier provisions may be reconsidered by applying the revised criteria. By following such instruction, the case of the applicant was considered again in the CRC meeting and this time he scored 34 merit points on a 100 point scale. On this ground, the CRC meeting held on 26.09.2012/01.10.2012 did not recommend the case of the applicant for compassionate appointment and the case of the applicant ^{was} ~~not~~ also considered hard and deserving. Therefore, it is the case of the Respondents that the applicant's case was correctly considered by the CRC as per the extant rules and was again reconsidered based upon the revised instructions. Therefore, the allegations of the applicant that the matter was not considered properly are without any basis. It is submitted by the Respondents that the vacancies in GDS posts have no relationship with the appointment on compassionate ground. The ceiling of 10% has been removed by the Postal Directorate and it has been mentioned that the hard and deserving cases would mean cases over and above 50 merit points. Therefore, the only ground on which the applicant's case could not be favourably considered is that he did not score 50 merit points on the 100 point scale. By making these factual submissions, Respondents have pleaded



that the applicant is not entitled to any further consideration by the Respondents-department.

4. Having heard the Ld. Counsels for the applicant as well as Respondents-department, I have also perused the records.

5. It has been brought to my notice that the Department of Posts has described the details of a Scheme for engagement of GDS on compassionate ground vide their letter dated 14.12.2010. The ~~avid~~ ^{awarded} objective of the Scheme is that the dependent family member of a GDS dying in harness may be engaged by the Department of Posts as a GDS in order to help the family, which is in distress. In the letter dated 14.12.2010, the Department of Posts in a communication to all the Chief Post Master Generals has laid down transparent criteria for considering the request for engagement on compassionate ground by a committee. It is intended to have a balanced and objective assessment of the financial condition of the family while considering such a request. It is clarified in this letter that even though the Department of Personnel and Training has provided for limiting compassionate appointment of wards of departmental employees to 5% of the total vacancy, no such stipulation has been made by the Department of Posts for this purpose in respect of GDS. In this letter, a system of allocation of points has also been worked out on a 100 point scale in order to bring greater objectivity to the merit of assessing the financial condition of the family. After the issue of this letter another letter dated 01.08.2011 of the Department of Posts has been issued laying down some revised provision for implementing the Scheme. Subsequently, again on 09.03.2012 another communication has been issued revising some other provisions of the Scheme. The important change made in the Scheme in this ^{letter} ~~matter~~ is that educational qualification of the applicant as an attribute of assessing indigent



Condition 2

has been deleted. This letter further lays down that the changes shall take effect from the date of application of the original scheme and all the cases which were considered and rejected by the CRC based on the earlier provisions of the scheme may be reconsidered afresh based on the application of the revised criteria. In the case before us, the representation of the applicant was admittedly considered by the CRC which was held on 12.12.2011. The Committee did not find it a deserving case and the matter of rejection was communicated to the applicant by a letter dated 11.01.2012. This letter is a very cryptic communication in which it has been mentioned that "the CRC which met on 12.12.2011 considered your case for compassionate appointment and rejected your case for appointment in any GDS post". Admittedly, again the department has considered the matter afresh based upon the revised instruction and this time the CRC meeting was held on 26.09.2012/01.10.2012. It is found that vide a letter dated 16.10.2012, a communication was sent to the applicant in which it was mentioned that the CRC after considering his case did not approve the same for appointment in any GDS post. This is a communication which is very similar to the earlier communication and is highly cryptic in nature.

6. On 19.08.2014 when the matter was taken up by this Bench, it was seen that the details of the consideration of the CRC were not filed as a part of the counter. Further, the cryptic communication as mentioned above did not reveal the details of the reasons for rejection. It was, therefore, decided to direct the Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents to submit the minutes of the CRC before the Tribunal so that a fair conclusion could be reached. Subsequently, in compliance with such directions, the Ld. ACGSC by filing a memo dated 14.10.2014 submitted the minutes of the meeting of CRC. In the memo, the Ld. ACGSC



has mentioned that she has submitted the minutes of the meeting held on 12.12.2011 and 26.09.2012. However, it is found that there are no minutes of the date 12.12.2011 enclosed to this memo and only the minutes of the meeting of CRC held on 26.09.2012/01.10.2012 have been enclosed. In the minutes, it has been mentioned that consequent upon the revision of merit points, the CRC also reviewed 59 cases of GDS which were considered in the meeting held on 12.12.2011 but rejected. The applicant's name appears at Sl. No. 61 under the list of reviewed cases. Under the column 'total points awarded' he has scored 34 marks. Apparently, because he has not scored more than 50 marks, the department did not consider him under hard and deserving cases for compassionate appointment. But in the minutes, column prescribed for total merit points awarded does not give the breakup of these points. It is, therefore, not possible to make out from the minutes as to how the marks were awarded in respect of various ~~cases~~ ^{attributes} considered. There are only 4 relevant columns. Column No. 1 provides for name of the candidates and relationship with GDS and date of birth. Column No.2 provides for particulars of deceased GDS and date of death. Column No.3 prescribes for educational qualification of the candidate and column No. 4 is meant for total merit points awarded. Therefore, if the applicant has a case that his total points should have been 50 or more then it is not possible from the minutes to derive a conclusion unless ~~a~~ further details of the breakup of the total marks are available to the Tribunal. It is presumed that the detailed calculations of the points have been made separately and they have not been reflected in the minutes of discussion.

7. The applicant's counsel filed a written note of submission in which he has pleaded that as per the Government of India, Department of Personnel O. M. dated 05.05.2003, the case of a candidate has to be



considered thrice for the purpose of compassionate appointment. In the present case, the case of the applicant has been considered twice and, therefore, it has to be considered once again. However, as already mentioned in this order, Department of Posts framed a separate Scheme for engagement of GDS on compassionate ground and, strictly speaking, such cases are not being considered as per the guidelines prescribed under the Department of Personnel and Training. But the plea made by the Ld. Counsel for the applicant for another consideration has some justification in view of the fact that the minutes of the CRC meetings do not reflect the consideration in great detail. It would have been definitely better if in the CRC meetings the breakup of the total marks awarded would have been given and the marks assigned to various attributes laid down in the scheme~~s~~ would have been clearly stated. Since, it has not been done so and the applicant has approached the Tribunal for a reconsideration, I feel that the Respondents need to consider the case of the applicant for compassionate appointment once again under the prescribed guidelines. As decided by the Hon'ble Apex Court in the case of Union of India and another vs Sasank Goswami and another as reported in 2013(2) SLR 429 SC, the following is the settled position with regard to the consideration of compassionate appointment.

“There can be no quarrel ^{to} of the settled legal proposition that the claim for appointment on compassionate ground is based on the premises that the applicant was dependent on the deceased employee. Strictly, such a claim cannot be upheld on the touch stone of Article 14 and 16 of the Constitution of India, however, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring ⁱⁿ ~~in~~ the family of such employee, who has served the State and dies while in service”.



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8. Therefore, the claim for compassionate appointment has to be considered by concerned department in accordance with the provisions of the scheme, rules and administrative instructions taking into account the financial condition of the family of the deceased. However, every applicant for such appointment is entitled to a fair consideration. It appears from the facts of the case that the applicant here deserves another consideration by the Respondent-authorities, particularly, in view of the fact that detailed reasons for his rejection are not apparent from the various documents which have been given to the Tribunal. As a result, therefore, it is directed that the Respondents may reconsider the case of the applicant within a period of 90 days from the date of receipt of a copy of this order and communicate their decisions to the applicant in a reasoned and speaking order. Ordered accordingly.

9. With the above observation and direction, the O.A. is disposed of. No costs.



(R.C.MISRA)
MEMBER (Admn.)

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