

34

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A.No. 310/91

XXXXXX.

Dt. of Decision: 21-1-93

Mr. S. Balaparameswara Reddy

Petitioner

Mr. C. Suryanarayana

Advocate for
the Petitioner
(s)

Versus

The SPO, Nandyal and 3 others

Respondent.

Mr. V. Rajeswara Rao for Mr. NV Ramana

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. C.J. Roy, Member (Judl.)

THE HON'BLE MR. --

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?
5. Remarks of Vice-Chairman on Columns 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

avl/

HQJR
M(J)

35

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.310 of 1991

DATE OF JUDGMENT: 21/11 JANUARY, 1993

BETWEEN:

Mr. S.Bala Parameswara Reddy

.. Applicant

AND

1. The Superintendent of POs,
Nandyal 518 501.
 2. The Postmaster General (S/R),
Kurnool 518 005.)
 3. The Chief Postmaster General,
A.P.Circle,
Hyderabad-500001.
 4. The Union of India represented by
The Director General, Posts,
New Delhi - 110001.
- .. Respondents

COUNSEL FOR THE APPLICANT: Mr. C.Suryanarayana

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC

CORAM:

Hon'ble Shri C.J.Roy, Member (Judicial).

contd....

7

17/11/93

..2..

JUDGMENT OF THE SINGLE MEMBER BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDICIAL)

The applicant herein has filed this application under Section 19 of the Administrative Tribunals Act, 1985 claiming a relief to direct the respondents to consider his request for an appointment on compassionate grounds as Extra Departmental Branch Post Master, Chabolu BO, a/w Noonepalle SO, on regular basis with effect from 7.5.1990, the date from which he is holding the charge of the post.

2. The brief facts of the case are as follows:-

The applicant's father late Shri S.Bali Reddy worked as EDBPM, Chabolu BO, for over 30 years. He died on 5.5.1990. Soon after the death of the applicant's father, the applicant was given charge of the Branch Office w.e.f. 7.5.1990 and he was provisionally appointed as EDBPM for 90 days retrospective^{-ly} w.e.f. 7.5.1990 vide orders dated 23.5.1990.

3. The applicant made ~~an~~ a representation on 31.5.1990 to the 1st respondent requesting for appointment as EDBPM on regular basis but the 1st respondent by the impugned order dated 18.12.1990 communicated the 2nd respondent's decision not to appoint him as EDBPM in relaxation of the recruitment rules but the provisional appointment of the applicant was extended for a further period of 90 days from^a retrospective date of 3.11.1990. His provisional appointment was further extended till 1.5.1991 vide order of the 1st respondent

contd...

.. 3 ..

dated 20.2.1991. The 1st respondent vide Memo dated 22.1.91 issued a notification calling for applications to the post of EDBPM, Chabolu. Apprehending that the 1st respondent may finalise the selections at any time depriving the applicant of the benefit of continuing his employment as EDBPM, the applicant filed this application.

4. The respondents in their counter affidavit stated that the mother of the applicant made a representation on 16.5.1990 to the 1st respondent for appointing her son who is the applicant herein as BPM in the post of her husband and there was no mention about compassionate appointment or indigent circumstances of the family. However, the 1st respondent took action for sending the case of the applicant to the Regional Office and sent the papers on 25.6.1990. The Regional Relaxation Committee consisting of the Director of Postal Services as Chairman, and Accounts Officer (IFA) and the concerned Superintendent of Post Offices as Members, examined the case and the Committee did not find any extreme hardship and indigent circumstances for considering his case as outlined in the DG Post letter No.43-212/79/Pen. dated 4.8.1990 and rejected the same. The applicant has not basically fulfilled the conditions laid down for appointment on compassionate grounds case after thorough consideration in the Regional Committee. Hence, there are no merits in the OA and the same is liable to be dismissed.

contd....

30/9/91

.. 4 ..

5. Heard Mr. C.Suryanarayana, learned counsel for the applicant and Mr. Rajeswara Rao for Mr. N.V.Ramana, learned Additional Standing Counsel for the Respondents.

6. The learned counsel for the applicant in support of the claim of the applicant, relied on a decision reported in "1991 LAB IC 392 (Smt. Phoolwati Vs. Union of India and others)," of the Hon'ble Supreme Court of India wherein their lordships even stated that supernumerary post should be created for compassionate appointments and no delay should be made.

7. The main contention of the learned counsel for the respondents is that preference will be given to the persons died in harness but this is not the case which consider for an appointment on compassionate

Compassionate appointment is not a vested right but meant to provide for the immediate need for dependents in such circumstances. The indigent circumstances are weighed depending upon the circumstances of each case.

person.
warrant to
grounds.

8. but meant to provide for the immediate need for dependents in such circumstances. The indigent circumstances are weighed depending upon the circumstances of each case.

through the scheme of compassionate appointments. The respondents in their counter affidavit stated that the applicant in her representation

contd....

.. 5 ..

dated 16.5.1990 to the 1st respondent did not mention about compassionate appointment or indigent circumstances of the family, since the case was considered by the Regional Relaxation Committee, the case of the applicant comes under the guidelines issued by the DGP&T vide letter dated 4.8.1980 (Annexure A-9). Hence, the Regional Relaxation Committee rightly considered the case of the applicant. But it is nowhere stated by the respondents the basis on which the case of the applicant was rejected and the material considered by the Regional Relaxation Committee.

10. One of the grounds attacked by the applicant is that the impugned order dated 18.12.1990 is not a speaking order nor shows the application of mind. No grounds were mentioned while rejecting the case of the applicant. The ground that the mother of the applicant did not mention in her representation about the compassionate appointment or indigent circumstances of the family, was not raised nor considered while disposing of the representation of the applicant. Therefore, a ground not mentioned in the impugned order, now mentioned in the counter cannot be taken into consideration as per the law laid down by the ruling given by his lordship in, "I(1991) CSJ (HC) 318), Nanki Devi and another Vs. Food Corporation of India and others" of the High Court of Allahabad, wherein his lordship observed that -

contd....

M

5/1/91

no

.. 6 ..

"Unfortunately in the order no reasons have been recorded for rejecting the claim of the petitioners. The order passed on 2nd September 1989 is quoted below:-

"In reference to this office Regd letter No.A/25(PF)/88/7075, dated 23.7.1988 vide which the papers regarding your appointment on compassionate grounds were forwarded to our Zonal Office/Regional Office. In this connection, it is to inform you that the case has been examined in detail at our Zonal Office, New Delhi, in accordance with the existing instructions, wherein the case could not find favour on its merit."

His Lordship opined-

"In my opinion, petitioners by means of the affidavit filed by them and other documents fully established their claims and the authorities made a favourable recommendation for giving appointment under class III or class IV as found suitable by the authorities. However, the claim has been rejected in arbitrary manner without assigning any reason. Shri N.P.Singh, learned counsel appearing for the respondents has sought to defend this order by placing the Circular dated 31st May, 1977 and para-12 of the counter affidavit. In the circular as well as in para-12 of the counter

contd....

M

6/10/89

affidavit, the requirements for giving preference on compassionate grounds have been given but as the impugned order does not mention any deficiency suffered by petitioner No.2 in establishing his claim, the order cannot be sustained. The substantial requirements for such claim are that the claimant may be dependent of the employee dying in harness, they may be destitute and may be qualified for the post on which he sought to be appointed. All these necessary ~~xx~~ ingredients are present in the case of the petitioners and, in my opinion, they are entitled for favourable consideration. Learned counsel for the respondents cannot be permitted to supplement the order by giving reasons, now." (emphasis added).

11. In view of the above, I am of the opinion, that the claim of the applicant cannot be rejected in mechanical manner as has been done by means of the impugned order, by giving reasons now in the counter.

11. In AIR 1989 SC 1976 (Smt. Sushma Gosain and others Vs. Union of India and others) and the Judgment in 1991 Lab. I.C. 392 Supreme Court, "Smt. Phoolwati Vs. Union of India and others", their lordships even stated that supernumerary post should be created for compassionate appointments and no delay should be made and these two Judgments were followed with approval in the case of "Smt. Asha Devi Srivastava Vs. Union of India and others" (AISLJ 1992(1) CAT 38), by the Central Administrative ~~Adm~~ Tribunal, New Delhi.

42

.. 8 ..

12. In view of the discussions in the preceding paragraphs, I am of the opinion that it is a fit case for considering the case of the applicant for compassionate appointment.

13. When an employee serving in a Government Department for a long time and dies in harness and if his dependents are left with no job and are roaming on the roads without any means of livelihood to support, it would belittle the stature of the State in the eyes of the public.

14. I, therefore, direct the respondents to appoint the applicant in relaxation of the recruitment rules on compassionate grounds within a period of three months from the date of receipt of a copy of this Judgment.

15. The application is accordingly allowed with no order as to costs.

[Signature]
(C.J.ROY)
Member (Judicial)

Dated: 21st January, 1993.

[Signature] 825/193,
Deputy Registrar (J)

To

1. The Superintendent of Post Offices, Nandyal-501.
2. The Postmaster General (S/R) Kurnool-5.
3. The Chief Postmaster General, A.P.Circle, Hyderabad-1.
4. The Director General, Posts, Union of India, New Delhi-1.
5. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
7. One spare copy.

pvm

825/193
Page 2
72

8

TYPED BY
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CHECKED BY APPROVED BY
HYDERABAD BENCH
HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 21-1-1992

ORDER/JUDGMENT:

R.A./ C.A./M.A.No.

in

O.A.No.

310/91

T.A.No.

(W.P.No.

Admitted and Interim directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A.Ordered/Rejected

No order as to costs.

pvm.

