

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 361/91

Date of Decision :

T.A.No.

KR Indira Devi & another

Petitioners

Shri C.Suryanarayana,

Advocate for the
petitioner (s)

Versus

The Superintendent of Post Offices,
Hindupur-515 201 & 2 others

Respondent.

Shri N.R.Davraj,

Advocate for the
Respondent (s)

CORAM :

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

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter 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)

(HCJR)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH ::
AT HYDERABAD.

O.A.No.361/91.

Date of Judgment: 11-2-1992

1. K.R.Indira Devi (Died)
2. K. Raghuramudu Applicants

Vs.

1. The Superintendent of Post Offices, Hindupur-515201.
2. The Chief Postmaster General, A.P.Circle, Hyderabad-500001.
3. The Secretary, Ministry of Communications, (Department of Posts), NewDelhi-110 001. Respondents

Counsel for the Applicant : Shri C.Suryanarayana

Counsel for the Respondents : Shri N.R. Devaraj

CORAM:

HON'BLE SHRI C.J.ROY, MEMBER (JUDICIAL)

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

.....

This is an application filed under section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to consider the case of the 2nd applicant for appointment as a Postal Assistant on compassionate grounds and to appoint him in relaxation of the recruitment rules.

2. First applicant is the wife and the 2nd applicant is the son of late Sri K.Rama Murthy, who was an employee in the postal department having served 36 years, died in harness on 13-1-1990. He left the first and second applicants and another son and three daughters behind him. The daughters were married during his life time, but his two sons were

...2.

unemployed and dependants of the deceased employee. The family is in indigent circumstances. It is also stated that the debts incurred for the marriages of three daughters were cleared when the applicants have received the sum of Rs.1,13,536-00 as terminal benefits. This is a case for appointment on compassionate grounds. On 22-1-1990 1st applicant made a representation to the Respondents requesting for an appointment to the 2nd applicant by relaxing his age according to the recruitment rules since he passed Intermediate. The Circle Selection Committee processed the application and rejected the request of the 1st applicant in its letter dt. 6-4-1990, which is impugned in this application. The 1st applicant also preferred representations dt. 2-5-1990 and 1-11-1990 to the 3rd respondent herein and to the President of India, respectively. The President's Secretariat gave a reply on 19-11-1990 stating that her representation was forwarded to the 3rd respondent for appropriate action. But the 3rd respondent had not chosen to take any action so far. Hence this application.

2. Shri C.Suryanarayana, learned counsel for the applicants contend that the impugned order No.B1/RE/Relax/KR dt. 6-4-1990 is contrary to the decision of the Hon'ble Supreme Court rendered in Smt. Sushma Gosain Vs. Union of India (AIR 1989 SC 1976) which was also reiterated in Smt. Phoolwati Vs. Union of India and others (1991 Lab. IC 392). In the above case Their Lordships laid down the law as follows:-

"In all claims for appointment on compassionate grounds there should not be any delay in appointment. The purpose of providing employment on compassionate grounds is to mitigate the hardship due to death of the bread-earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant."

3. Counter has been filed on behalf of the Respondents stating that the 2nd applicant is not entitled for any appointment on compassionate grounds as the applicants are not in any indigent circumstances since they have received Rs.1,13,536-00 as terminal benefits and the 1st applicant is receiving Rs. 900 + reliefs every month as family pension. It is also averred in the counter that the appointment on compassionate grounds cannot be provided in each and every case as a matter of right and each case has to be considered on merits. With these contentions Respondents pray to dismiss the application.

4. Heard Sri C.Suryanarayana, learned counsel for the applicants and Sri N.R.Devaraj, learned counsel for the Respondents and gone through the records carefully. The recruitment rules for appointment on compassionate grounds are also filed.

5. The case is reserved for orders on 30-1-1992. On 5-2-1992 Sri C.Suryanarayana, learned counsel for the applicants filed M.A.153/92 with a prayer to re-open the case to enable him to advance further arguments and to submit additional facts otherwise irreparable loss would cause to the applicant No.2. The said M.A. is heard along with the main O.A. on 6-2-1992. The preliminary objection taken by Sri N.R.Devaraj, learned counsel, for the Respondents that when once the case is reserved for Judgment the same cannot be re-opened, I do not agree with his view. Rule-24 of the CAT proceedings read with section 21 of the General Clauses Act, his arguments can be negatived.

...4.

33

Sec.21 of the General Clauses Act, 1897 reads as follows:

"21. Power to issue, to include power to add to, amend, vary or rescind, notifications, orders, rules or bye-laws. - Where, by any (Central Act) or Regulation, a power to (issue notifications) orders, rules, or bye-laws is conferred then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any (notifications) orders, rules or bye-laws so issued."

On a close reading, it gives scope for re-opening, for effective meeting of the points if overlooked at the time when the case was reserved for Judgment.

An extraction of Rule-24 of the A.T.Act, 1985 is sufficient, which reads as follows:-

"The Tribunal may make such orders or give such directions as may necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."

This gives wider powers to the Tribunal. Under the words "to secure the ends of justice" I have the jurisdiction to re-open the case, if satisfied. Sec. 22(1) read with Rule-21, confers almost all powers to receive further evidence and to re-open the case at any stage until the judgment is signed and pronounced. The regulation of procedure, natural justice are phrases which give wide scope to this Tribunal to borrow the spirit though not of the letter from all acts, precedents and scriptures, if necessary. The object of this Rule is only to secure the ends of justice. The subsequent events may alter the findings. It may sincerely be taken into consideration because when the judgment is pronounced, if a new material is available review is provided. When a judgment is not at all pronounced why it cannot be re-opened to secure the ends of justice. The amendment of pleadings by way of an M.A. is not barred and placing the Rule-17 in the CAT (Procedure) Rules would definitely show the intention of the Legislature in its wisdom that unless amendment is allowed the facts which are not in existence may be ignored and justice may be denied to the deserving party. I fail to see ^{how} ~~that~~ this Tribunal is prevented from receiving additional evidence and documents if it helps on arriving at just solution.

The Tribunal has been given powers to secure justice even amending the pleadings if it is necessary. I, therefore, hold that there is no force in the arguments of Shri N.R. Devaraj, learned counsel for the Respondents.

6. It may be seen from Sec. 151 of Civil Procedure Code which reads as follows:

"Nothing in this Court shall be deemed to limit or otherwise effect the inherent powers to make such order as may be necessary to meet the ends of justice or to prevent abuse of the process of the court Code".

Sec.125 of Cr.P.C. for Maintenance: Section 125 of Cr.P.C. says that if any person having means, neglects or shows disinterest in maintaining the family, his wife is unable to maintain herself, children, and the monthly rate not exceeding Rs.500/- on the whole.

It is more or less kept as statute to provide and to avoid vagrancy. Compassionate appointment is also giving succour to the needy in order to prevent vagrancy.

Sec. 482 Cr.P.C. reads as follows:

"Nothing in this court shall be deemed ^{+ limit} ~~or~~ effect the inherent powers of the High Court to make such order as may be necessary to give ~~effect~~ or to prevent abuse of any process of the ~~court~~ or otherwise to secure the ends of justice."

"Or otherwise to secure the ends of justice:

The High Court has been given powers under this section, in addition to what it possess ^{under} its ~~Charter~~ and Letters Patent, to interfere in order to secure the ends of justice. If the High Court feels that the ends of justice require that an order should be made in an application, although the application is not contemplated by the Code the High Court will entertain the application and make the necessary orders to secure the ends of justice.

The Court while deciding a law point may decide it rightly or wrongly. An application under this section will not lie on the ground that the Court has decided a point of law incorrectly and has resulted in gross injustice to the applicant.

When cognizance has been taken despite the prohibition under section 195 (1)(a), ^{ends of} justice require that it should be quashed. The powers of the Court under section 482 are wide enough to protect a person's personal liberty when the same has been put in jeopardy owing to the enforcement of a wholly fictitious order. The inherent powers under this section may be invoked to save the accused from the harrassment of a second trial in cases when Section 300 of the Code is not applicable.

Where the accused persons inspite of the release order of the Magistrate could not arrange for sureties being persons of poor means were directed by the High Court in the interest of justice to be released on personal bonds only.

Accidental and inadvertent errors in a Judgment may be corrected in order to advance the interests of justice."

At the same time the Court also suo-moto re-open the cases ^{may} under several circumstances which need not be limited. They may be exhaustive. The object is only to hear on all sides to come to a conclusion for effectively adjudicating the issues involved in the matter, but the hands of the justice cannot be tied by mere technical objections. So, sometimes we have to re-open the case even if it is inconvenient to all sides to secure the ends of justice. The re-opening is also available to the respondents, ^{but} it should be sparingly used by all. Otherwise it will result in counter productive.

7. In Sec. 151 CPC the term "to meet the ends of Justice" is used, whereas in Cr.P.C. 482 and Rule-24, the term "to secure the ends of justice" is used. The term "to secure the ends of justice" is more powerful than the term "to meet the ends of justice". When the term "to secure the ends of justice" is used the Court can go out of the way even by irrelevant questions ^{putting in} in its Judgment ^{it should not be} based on relevant evidence.

8. Hence, the case is re-opened to peruse the further evidence advanced by Shri C.Suryanarayana, learned counsel for the applicants. The case is for appointment on compassionate grounds on the score that the deceased left behind his wife and two sons and three daughters, of which the 2nd son is mentally retarded and the 1st son (applicant No.2 herein) is unemployed and the wife of the deceased was not able to maintain the family and they are in indigent circumstances though they have received some terminal benefits. Subsequent to the filing of the O.A. and also subsequent to closing the case for orders after hearing both sides M.A. 153/92 is filed stating that the Applicant No.1 ~~is~~ died on 28-6-1991 as per Annexure-1 to the M.A. Now, therefore, the burden is more on the only capable son. No doubt, the pension will be continued to be paid to the mentally retarded son as per the rules, I do not think that will mitigate the indigent circumstances of the applicant No.2. If these facts are also brought to the notice of the committee which earlier rejected 2nd applicant's application, it may change its opinion and reconsider the case basing on the new facts. It is also urged before me that the Government is competent to relax the age. An advertisement is also filed ^{as an annexure} to the M.A.153/92, wherein certain vacancies were notified and six vacancies for O.C. candidates were also available in Hindupur. In the said advertisement seven conditions are prescribed for relaxation of age (upto the age of 45 years). I have also seen the balance of convenience and also examined whether there is a prima facie case for appointment on compassionate grounds. If the Judgment rendered in Smt.Sushma Gosain Vs. Union of India and others (AIR 1989 SC 1976) is examined, it can be seen that Their Lordships laid stress ^{There} if there is no suitable

post for appointment, supernumerary posts can be created. In para-8 of the above said Judgment it is further held that denial of appointment is patently arbitrary and cannot be supported in any view of the matter. In para-10 of the Judgment Their Lordships directed the respondents therein that the applicant shall be appointed in an appropriate place in Delhi itself within three weeks from the date of the Judgment. On a careful consideration to the above said Judgment, it can be said that on mere technicalities the ^{application for} appointment on compassionate grounds cannot be thrown out.

9. On a further consideration ⁱⁿ ~~to~~ the Judgment rendered in Phoolwati Vs. Union of India (AIR 1991 SC 469) where the wife of the deceased was tapping the doors of justice for appointment on compassionate grounds Their Lordships of the Hon'ble Supreme Court ordered that immediate steps be taken for employing the applicant's son and she shall be allowed to stay in the quarters. In para-3 of the said Judgment it was also held that the appointment on compassionate ground should not be delayed at all. The summary of these two judgments was reflected in the decision rendered in Asha Devi Srivastava Vs. Union of India & others decided by the Principal Bench, wherein it was observed that "Government should make a scheme for granting appointments on compassionate grounds". In my view appointment on compassionate grounds should be considered with a sympathetic view, kindness and generosity.

10. For the reasons given above, I direct the respondents to relax the age of the applicant, if necessary, also, educational qualifications and consider for appointment on

compassionate grounds to any suitable post either at present or in the notified vacancies in terms of Notification dt. 6-11-1991 bearing No.B1/RE/II/H.Y/91 filed along with additional material papers; or ☐ if necessary by creating a supernumerary post, within a period of four months from the date of receipt of this Judgment. Accordingly the O.A. is allowed. No costs.

M

(C.J. ROY)
MEMBER (J)

Dated: 11th February, 1992. Deputy Registrar (J)

grh.

To

1. The Superintendent of Post Offices, Hindupur-201.
2. The Chief Postmaster General, A.P.Circle, Hyderabad-1.
3. The Secretary, Ministry of Communications,
(Department of Posts) New Delhi-1.
4. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, Addl. CGSC. CAT.Hyd.
6. One spare copy.

pvm.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

M.A.No. 859/92 in

Q.A.No. 361/91

Dt. of Decision: 5-11-92

K.Raghuramudu,

Petitioner

Sri C.Suryanarayana,

Advocate for
the Petitioner
(s)

Versus

The Superintendent of Post Offices, Hindupur, 515 201
& 2 others Respondent.

Sri N.R.Devraj,

Advocate for
the Respondent
(s)

CONCERN:

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

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/

(HCJR)
M(J)

43

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

M.A.No.859/92
in
O.A.No.361/91.

Dt. of Order:5-11-92.

K.Raghuramudu

...Applicant

Vs..

1. The Superintendent of Post Offices,
Hindupur-515 201.
2. The Chief Post Master General,
A.P.Circle, Hyderabad-500 001.
3. The Secretary,
Ministry of Communications
(Rep. Union of India)
Department of Posts, New Delhi-110 001.

...Respondents

-- -- -- --

Counsel for the Applicant : Sri C.Suryanarayana

Counsel for the Respondents : Sri N.R.Devraj, Sr.CGSC

-- -- -- --

CORAM:

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

(Order of the Single Bench delivered by
Hon'ble Sri C.J.Roy, Member (J)).

-- -- -- --

Heard Sri C.Suryanarayana, counsel for the applicant
and Sri N.R.Devraj, learned counsel for the Respondents.

While passing the judgment in O.A.361/92, this Tribunal directed
the Respondents to relax the rules and conditions, if necessary,
to appoint the applicant on compassionate grounds. Sri N.R.(C)
Devraj produced a letter from the Head of the Department
stating that the order is going to be implemented. The time
was granted and again Sri N.R.Devraj states that there are

...2.

200/2

eight persons preceeding the applicant's case and that the consideration of the applicant can only be done after the turn of eight persons preceeding the applicant is over.

2. I fail to see any directions or orders to the said eight persons from any competent court. Hence in my view they do not stand ~~over~~ over the applicant. However, on a consideration of the arguments of Sri N.R.Devraj, as a final chance, two months time is given to the Respondents for implementing the orders passed in O.A.361/91. Accordingly M.A.859/92 is ^{the above} disposed-of with/direction. No costs.

(C.J.ROY)
Member (J)

Dated: 5th November, 1992.
Dictated in Open Court

DY. Registrar (Judl.)

avl/

Copy to:-

1. The Superintendent of Post Offices, Hindpur-515 201.
2. The Chief Post Master General, A.P.Circle, Hyderabad-001.
3. The Secretary, Ministry of Communications, (Rep Union of India) Department of Posts, New Delhi-001.
4. One copy to Sri. C.Suryanarayana, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One spare copy.

Rsm/-

2-22-92
Post
7

M.A. 859/92

O.A. 361/91

TYPED BY *[Signature]* COMPARED BY *[Signature]*
CHECKED BY *[Signature]* APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

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

AND

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

AND

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

Dated: 5/11/1992

ORDER/JUDGMENT:

R.A./G.A./M.A.No 859/92

in

O.A.No. 361/91

T.A.No.

(wp.No.)

Admitted and interim directions
issued.

Allowed

M.A 859/92

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A.Ordered/Rejected

No orders as to costs.

pvm

