

62

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1051/99.

DATE OF ORDER : 27 -10-1999.

Between :

Smt. K. Lata, w/o Srinivasa Reddy,
aged about 26 years, Working as
EDBPM, Khajipet, Sangareddy Postal
Division, Medak District.

... APPLICANT

A N D

1. The Superintendent of Post Ofsfices,
Sangareddy Division,
Sangareddy.

2. The Postmaster General,
Hyderabad Region, Hyderabad.

... RESPONDENTS.

Counsel for the Applicant : Mr. S. Ramakrishna Rao

Counsel for Respondents : Mrs. P.Madhavi Devi, ACGSC

CORAM :

THE HONOURABLE MR. JUSTICE D. H. NASIR, VICE-CHAIRMAN.

Contd. 2.


O R D E R.

Justice D.H. Nasir, VC:

1. By order dated 15.4.1999 the claim advanced by the applicant for appointment on compassionate grounds was rejected by the respondents. The applicant's father-in-law Sri Rajamalla Reddy was working as EDBPM, Kazipet for about 35 years and on 2.7.1998 he was killed in an encounter with some unlawful elements. On a representation being made, the applicant was provisionally appointed as EDBPM, Kazipet with effect from 4.7.1998 on the happening of the aforesaid unfortunate incident in which the applicant's father-in-law was killed. The applicant's mother-in-law submitted a representation to the department requesting for the applicant's appointment on compassionate grounds in view of the fact that the applicant was looking after the entire family. The first respondent, however, issued a notification for filling up the post of EDBPM, Kazipet on regular basis vide notification dated 30.11.1998. Aggrieved by the said notification dated 30.11.1998, the applicant filed OA No.1722/98 before this Tribunal questioning the validity of the said notification. The O.A. was disposed of on 24.12.1998 with the following directions :

" (i) that if the applicant's request for appointment on compassionate grounds is under consideration of the Circle Relaxation Committee, the Notification No.83/Kajipet dated 30.11.1998 shall be suspended till such time a decision is taken by the Competent Authority with regard to her appointment as EDBPM on compassionate grounds and the applicant be advised suitably on the basis of that decision ;

(ii) that if the notification dated 30.11.1998 is to be revived, it shall be given effect to only after two weeks of the intimation of the decision of the Competent Authority to the applicant."



2. Further according to the applicant, the second respondent issued the impugned Memo No.PMG(H)/RE/CA/83/SGD dated 15.4.1999 rejecting the applicant's claim for appointment on compassionate grounds. According to the respondents, the scheme was applicable only to sons/daughters of the deceased. After issuing the aforesaid rejection order, the first respondent issued a fresh notification dated 21.6.1999 fixing 20.7.1999 as the last date for receipt of applications. Since the applicant felt aggrieved by the rejection of her case for compassionate appointment as well as issuance of the notification dated 21.6.1999 the applicant has approached again with this O.A. for redressal of her grievances.

3. According to the applicant, she is the only person in the family eligible to hold the post of EDBPM. She further states that her brothers-in-law are not Matriculates and that the family was not allowed to cultivate their lands by some unlawful elements. In support of the applicant's contention that the daughter-in-law can also be considered for appointment on compassionate ground, she submits as stated on page 5 in para-5 of the O.A. as follows :

" Daughter-in-law is more than daughter in our society since a daughter has to quit the parents after marriage, but daughter-in-law has to be live or die in the in-law's house sharing the responsibilities. The rejection of the case of the applicant for appointment on compassionate grounds, was issued with a view to displace the applicant and to throw the family in distress."

4. The above plea is resisted by the respondents in their reply statement by pointing out firstly that the applicant was not eligible to seek appointment in relaxation of recruitment rules as she was not covered

②

65

within the definition of 'family' vide Rule 2(a)(i) and (iii) of EDS & CNS Rules, 1964. It was also communicated to the applicant vide letter dated 16.4.1999 that there was no provision in the Rules for consideration of her case for appointment on compassionate grounds as the scheme was applicable only to sons/daughters of the deceased. The decision of the Postmaster General was conveyed to the applicant regarding her non-eligibility for compassionate appointment and thereafter the notification dated 30.11.1998 was revived on 7.5.1999 and the applications received in response to the notification were verified and considered for selection. However, none of the applicants was found eligible for selection. Hence, the vacancy was renotified vide notification dated 21.6.1999. The Employment Exchange was also addressed on the same date for sponsoring candidates. Only 3 applications were received in response to the open notifications dated 21.6.1999 including the one from the applicant.

5. Further according to the respondents, the applicant had not taken any new ground in this O.A. different from the one in her earlier O.A.No.1722/98. According to the respondents, they complied with the directions given in the Tribunal's order dated 21.12.1998. The requests of the applicant, however, had to be turned down by R-2 as it was found that daughter-in-law of the deceased EDA ~~was not eligible to be considered for such~~ appointment on compassionate grounds. It is further pointed out in the reply affidavit that the family of the deceased BPM was not passing through any indigent circumstances so as to consider her case for appointment

②

under relaxation of recruitment rules. None of the villagers came forward on the date of death of the regular BPM. The representation of the wife of the deceased Agent to appoint her daughter-in-law on compassionate grounds was also rejected by the Postmaster General vide his letter dated 16.4.1999. There is, however, no dispute about the fact that the applicant was appointed on provisional basis after the deceased EDA's death.

6. In OA No.1722/98 decided on 24.12.1998 the Tribunal took into consideration that before deciding the issue of appointment of the applicant on compassionate ground the question of issuing notification for filling up the post regularly did not arise and therefore, the notification had to be set aside and a decision had to be taken regarding the appointment of the applicant on compassionate grounds. The judgment of this Tribunal in OA No.1484/98 dated 16.11.1998 was also taken into consideration by the Bench while deciding the OA 1722/98 in which it was inter alia observed that the applicant's case for compassionate appointment was pending for consideration and the Circle Relaxation Committee was reported to have not yet taken any decision in the case and in the meantime, R-1 issued the impugned notification calling for applications for regular selection of a suitable candidate to the post of BPM. This action, as held by the Tribunal, was incorrect and violative of the instructions contained in DG Posts letter No.14-25/91-ED & Trg. dated 5.9.1993 which stipulated that prior to filling up of ED Post on regular basis it must be ensured that no claims for compassionate appointment were pending or anticipated for the posts rendered vacant due to the

②

death of regular incumbents. The notification in question was issued without waiting for the decision of the competent authority with regard to the applicant's request for compassionate appointment. Taking the above facts and circumstances into consideration, the impugned notification was set aside and the status quo was directed to be continued until a decision was taken by the Circle Relaxation Committee.

7. I do not find any discrepancy in the stand taken by the respondents that the applicant's case for compassionate appointment could not be considered because she did not fall within the meaning of word 'near relative'. It is not within the domain of the Tribunal to add or delete any word or words which is/are not mentioned categorically in the concerned rule position. The Tribunal is not sitting in appeal over the provisions of the rules and regulations for appointment on compassionate ground. The Tribunal can intervene only if it finds that the concerned rule is capable of being interpreted in two different ways. In cases where there is no ambiguity about the interpretation of the term or expression in question, the Tribunal must abstain from making any new interpretation which is not germane to the letter and spirit of the relevant provision, more particularly, when an amendment is made in the rule for the purpose of removing ambiguity and making it more specific. In that view of the matter, therefore, even if an undertaking is given before the Tribunal by the person aspiring to secure such appointment, ^{ⓐ The same cannot be considered ⓐ} if he or she does not stand covered within the amended rule. In my opinion, therefore, no scope is now left to read anything in the relevant portion which

ⓐ


is not specifically stated.

8. By letter dated 16.4.1999 the Postmaster General's office informed the applicant in clear terms that there was no provision in the rules for considering the applicant's case for appointment on compassionate grounds and such rule is only applicable to sons/daughters of the deceased, which need not at all be interfered with.

9. It is also pertinent to note that the applicant is having income from lands of about Rs.10,000/- per month, as stated clearly in para 4(1) of the OA. It need hardly be stated that with the monthly income of Rs.10,000/-the word does not lye in the mouth of the applicant that she and the members of the family of the deceased are passing through any indigent circumstances.

10. It is true that no provisional appointment could be allowed to be made in place of the applicant who is presently continuing as a provisional appointee on the post in question. However, I must refrain from giving any direction whether the notification in question could be quashed or set aside in view of the fact that the legality of the notification in question is not challenged in the O.A. and no relief is sought in respect of validity or otherwise of the said notification dated 21.6.1999.

11. With the above situation in view, therefore, the O.A. is dismissed. No costs.


(D. H. NASIR)
VICE-CHAIRMAN.

DATED THE 27th DAY OF OCTOBER, 1999.

DJ/



Reportable Case

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH ^{Hyd} HYDERABAD.

1ST AND 2ND COURT

COPY TO :-

1. BBHND ✓
2. HRRN M (A)
3. BBSJP M (J) ✓
4. D.R. (A) ✓
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

Dr J (2)

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY ^{8/11/99}

THE HON'BLE MR. JUSTICE D.H. NASIR

VICE - CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (ADMN.)

THE HON'BLE MR. D.S. JAI PARAMESWAR :
MEMBER (JUDL.)

* * *

DATE OF ORDER: 27-10-99

~~MA/RA/CP~~ No.

in

DA. NO. 1051/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

(14 copies)

