

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD BENCH
HYDERABAD

O.A.NO.203 OF 1999.

DATE OF DECISION: 15-9-1999.

BETWEEN:

Chennuru Venkatasiva Kumar.

....Applicant

A n d

1. The Superintendent of Post Offices,
Gudur Division, Gudur, Nellore District, AP.
2. The Chief Post Master General, Hyderabad,
Andhra Pradesh.Respondents

COUNSEL FOR THE APPLICANT :: Mr. P.Venkateshwarlu

COUNSEL FOR THE RESPONDENTS :: Mr. P.Phalguna Rao

CORAM:

THE HONBLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

: O R D E R :

(PER HONBLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN)

1. The respondents in this OA are sought to be directed to re-consider the applicant's case for the post of EDBPM of Ananthamadugu Branch Office under the jurisdiction of Saidapuram, Nellore District, on compassionate ground.
2. The applicant passed SSC in the year 1981. His father was working as Extra-Departmental Branch Postmaster of Ananthamadugu Village. He died on 11-9-1994 in harness. Consequently the post of EDBPM fell vacant. According to the applicant his brother and himself were the only sons of the deceased. The applicant made an application immediately after his father's death to appoint him as EDBPM of Ananthamadugu Village as he was supposed to lookafter the entire family. Accordingly, on 12-9-1994, he was appointed as a provisional EDBPM and he had been working as such since 12-9-1994.
3. The respondents issued a notification suddenly inviting applications for selection to the post of EDBPM, Ananthamadugu branch Office. The applicant, therefore, challenged the cause of issuing the aforesaid notification by filing OA.No.165 of 1998 in this Tribunal, which was disposed of on 14-10-1998 with a direction to the respondents that the Circle Relaxation Committee may consider the applicant's case for compassionate appointment expeditiously on merits and in accordance with the extant rules and instructions.
4. The applicant, however, was served with the impugned Order on 13-1-1999 stating that in pursuance of the directions given in OA.No.165 of 1998 his case for compassionate appointment was examined carefully by the Circle Selection Committee, but the Committee did not recommend the applicant for appointment as per the CPMG, Hyderabad, vide Proceedings dated 30-12-1998 and that the applicant's family was not found to be passing through indigent circumstances.

5. The Tribunal in OA.No.165 of 1998, decided on 14-10-1998, observed as follows:

"In the light of the above instructions, it is to be held that all comments and observations regarding the merits of the applicant's case (contained in the counter-affidavit filed by the Respondents) are misadvise and no cognizance can be taken of any of those at present. It is for the Circle Relaxation Committee to take a proper decision in the light of the facts made available to them in connection with the applicant's claim for compassionate appointment. It was incorrect on the part of Respondent No.2 to have issued a notification or initiated in any manner action to fill up the post on a regular basis when it was known that the applicant was a candidate for the post on compassionate grounds. To that limited extent the entire exercise carried out so far to fill up the post on regular basis is held to be impermissible. The notification and all action thereon are, therefore, set aside".

6. The Bench of this Tribunal therefore observed that the case of the applicant for compassionate appointment was required to be considered expeditiously by the Circle Relaxation Committee on the facts and circumstances of the case and strictly on merits as per the rules, instructions and the provisions of the relevant scheme. The Bench therefore directed that if the applicant's appointment was approved by the Committee, no further action would be necessary except to regularize the services of the applicant in the post, which he was provisionally holding. In case the applicant's case was rejected, necessary action to fill up the post on regular basis by a selected candidate could be initiated, provided that no such action be initiated earlier than three weeks from the date of communication of the Committee's decision to the applicant.

7. By letter dated 28-12-1994, of the Assistant Director General (Training), it was communicated under Paragraph 3 that the matter had been examined carefully and having regard to the basic fact that compassionate appointments involved departure from the normal process of recruitment to various points, there was utmost need of circumspection with a view to ensuring that requests for compassionate appointments in genuine cases were not refused and those who were unjust were not conceded. It is further contained in the said proceedings that the Divisional or the Sub-Divisional Heads could not be expected to take decision in such cases strictly in keeping with the spirit of the instructions issued by the Government from time to time. In other words

the need for exercising these powers at the level of the Circle Relaxation Committee under the Chairmanship of CPMG could not be under scored and from the point of view of uniformity in approach atleast within the circle itself, it was desirable that all compassionate appointment cases were handled at the level of Circle Relaxation Committee and disposed of finally or referred to the office for further processing in cases where there was already an earning member and/or the case was more than 5 years old or approval for relaxation of any of the other prescribed eligibility conditions was needed. It was therefore decided that in future all those cases should be dealt with at the level of Circle Relaxation Committee.

8. In the counter affidavit filed by the Respondent No.1 (Superintendent of Post Offices, Gudur Division, Gudur, Nellore District, AP), it is contended that the proposal for compassionate appointment was permitted upto 4-3-1998 and thereafter came the Tribunal's direction on 14-10-1998 in OA.No.165 of 1998, that the case of the applicant for compassionate appointment be considered expeditiously by the Circle Relaxation Committee on the facts and circumstances of the case and strictly on merits, as per rules, instructions and the provisions of the relevant scheme. The Tribunal also directed that if the applicant's appointment was approved by the Committee, no further action would be necessary except to regularize the services of the applicant in the post which he was provisionally holding. However, in the event of the applicant's case being rejected on merits, necessary action to fill up the post on regular basis by a selected candidate could be initiated. It is further contended in the counter affidavit that the Circle Relaxation Committee carefully examined the case in the light of the direction dated 14-10-1998. But the Committee did not find the case worthy of appointment, vide CO letter dated 30-12-1998, communicated through RO letter dated 5-1-1999, as the family was not found to be in indigent circumstances. The same was communicated to the applicant, vide letter dated 00-1-1999. In that view of the matter therefore, according to the respondents, the applicant's case could not be considered for appointment on compassionate ground.

9. All emphasis on behalf of the applicant was based on the ground that the applicant's family was passing through indigent circumstances. It was submitted on behalf of the applicant that there was no inquiry about his family's financial condition by the respondents and the decision that the family of the applicant was not considered to be passing through indigent circumstances was arbitrary. In our opinion, it is difficult to uphold this argument advanced on behalf of the applicant in view of the fact that the indigent circumstance factor was a matter of subjective investigation and consideration. No reason emerges from the material produced by the applicant on the record of the case to disregard the fact of inquiry having been carried out by the respondents and the consequent conclusion arrived at by the respondents, so as to view with suspicion or doubt about the correctness of the findings of the Circle Relaxation Committee. The applicant has also not filed any Rejoinder refuting this finding of fact by the Committee.

10. In the above view of the matter, therefore, we do not find that the applicant's case deserves any re-consideration on the finding with regard to the indigent circumstances. Hence, the OA is dismissed. No costs.

D. H. Nasir
(D. H. NASIR)
VICE CHAIRMAN

DSN

DATED: this the 15th day of September, 1999

Am 15/9/99

1ST AND II NO COURT

COPY TO :-

1. HODNO
2. HRRN M (A)
3. HSSP M (D)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY *✓* 30/9/99 CHECKED BY
COMPARED BY *✓* APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

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

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (DUDL)

* * *
DATE OF ORDER: 15/9/99

MA/RA/CP. NO.

IN
CA. NO. 203/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

CA CLOSED
DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

