

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00821/2016

DATED THIS THE 09TH DAY OF JUNE, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID...MEMBER (J)
HON'BLE SHRI P. K. PRADHAN, MEMBER (A)

G.Kiran,
S/o B.Gangadaraiah,
Age: 26 years,
Ex.TSCION par with
Group 'D' – B in the RMS,
Bangalore 560023,
Residing at: 12/13, 4th Cross,
Deshpande Nagar,
Dodda Bommasandra,
Vidyaranyapura,
Bangalore – 560097.

... Applicant

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Represented by Secretary
Department of Post,
Dak Bhavan,
New Delhi-110001.
2. Chief Post Master General,
Karnataka Circle,
Bangalore – 560 001.
3. Senior Superintendent (RMS),
Bangalore Sorting Division,
Bangalore – 560 026.

...Respondents

(By Shri K. Gajendra Vasu, Senior Panel Counsel)

ORDER (ORAL)

HON'BLE SHRI JUSTICE HARUN-UL-RASHID, MEMBER (J):

The Original Application is filed seeking the following reliefs:

- i. *Quash the Memo No. R & E/2-5/812/2016 dated: 27-5-2016, issued by Chief Post Master General, Karnataka Circle, Bangalore – 56001 vide Annexure A7,*
- ii. *Direct the respondents to consider the applicant for compassionate appointment in accordance with law.*

2. The applicant's father Shri B. Gangadaraiah was engaged as Casual Labourer on 22.01.1986 and conferred with temporary status with effect from 01.01.1991. Subsequently, he was treated as on par with Group D for limited benefits with effect from 01.01.2001. He expired on 05.11.2012. In the reply statement it is contended that he was not appointed against any Group D post (now MTS) till his death.

3. The wife of the deceased had requested to provide appointment to her son who is the applicant herein. The request was rejected stating that as per the instructions contained in the Postal Directorate letter No. 37-25/98-SPB-I dated 21.10.1998, the dependents of the Casual Labourers with temporary status are not entitled to the benefits of compassionate appointment. The applicant filed the Original Application No. 1014/2013 challenging the order of rejection. This Tribunal vide final order dated 20.08.2015 directed the respondents to consider the applicant for compassionate appointment in accordance with law. In compliance with the order issued by this Tribunal, the matter was considered in the Special CRC meeting held on 18.05.2016. The Special CRC, after examining all the documents and relevant rules on the subject, came to the conclusion that the claim of the applicant for compassionate appointment is not in accordance with law and provisions contained in the Department of Personnel & Training, the Nodal Ministry conveyed in Postal Directorate letter No. 37-25/98-SPB-1 dated 21.10.1998

and provision contained in Postal Directorate letter No. 17-17/2010-GDS/1 dated 17.12.2015. Annexure-A7 is the order passed by the respondents. In the said order, the respondents had considered the claim of the applicant for compassionate appointment and found that it is not in accordance with law and provisions contained in the DoPT letters dated 21.10.1998 and 17.12.2015. The learned counsel for the applicant contended that the DoPT guidelines dated 16.01.2013 only refers to Casual Labourers and not temporary status on par with Group D employees and therefore the applicant is eligible for consideration for compassionate appointment.

4. As per the instructions contained in the Postal Directorate letter No. 37-25/98-SPB-1 dated 21.10.1998, the dependent of Casual Labourers with temporary status are not entitled to the benefits of compassionate appointment. It is mentioned in the reply statement that this decision of the Postal Directorate has been taken in consultation with the Department of Personnel & Training (DOP&T), Nodal Ministry. Annexure-R2 is the copy of the order dated 21.10.1998. It reads as follows:

“ The matter has been examined in consultation with the DOP&T, the nodal Ministry in this regard. The grant of temporary status to the casual employees is without reference to the availability of regular posts. Hence, such casual employees are not entitled to the benefits as are admissible to regular employees holding civil posts. The dependent of casual employees with temporary status are, therefore, not entitled to the benefit of compassionate appointment.”

5. This tribunal on the earlier occasion in OA No.1014/213 had disposed of the OA directing the respondents to consider the applicant for compassionate appointment in accordance with law. In the order dated 05.07.2016 in Contempt Petition No. 170/00085/2016, the Tribunal observed

that the direction to the respondents is only to consider the application and pass appropriate orders. It is noticed in the order that the matter was taken up for consideration by the respondents, they have considered and passed the order under Annexure-A7 and that this is in compliance with the direction issued by this Tribunal. Accordingly it was held that the Contempt Petition is devoid of any merit.

6. The learned standing counsel pointed out that conferment of temporary status does not automatically imply that the Casual Labourers will be appointed as regular Group D employees within any fixed timeframe. He submitted that appointment to Group D vacancies will continue to be done as per the extant Recruitment Rules which stipulate preference to eligible ED employees. It is also submitted that after rendering 3 years continuous service after conferment of temporary status, the Casual Labourers will be treated at par with temporary Group D employees for the purpose of contribution to General Provident Fund. Such employees will be further eligible for grant of Festival Advance/Flood Advance in the same conditions as are applicable to temporary Group D employees provided they furnish two sureties from permanent government servants of this department.

7. The applicant's father was treated as on par with Group D for limited benefits with effect from 01.01.2001. He was not appointed against any Group D post till his death, therefore, it is contended that he is not a government servant but remained as a Casual Labourer. It is clarified by the DoPT in the OM dated 16.01.2013 that "government servant" for the purpose of these instructions means a government servant appointed on regular basis and not

one working on daily wage or casual or apprentice or *ad hoc* or contract or re-employment basis. The temporary employees are being granted with temporary status/on par with Group D status for the limited benefits. It is also pointed out that the work charged employees are considered as regular workers and they are enjoying all the facilities available to regular employees whereas the Casual Labourers with temporary status on par with Group D are entitled to only limited facilities and they are not regular employees unless they are confirmed in the post of Group D.

8. The respondents have considered the matter as directed by this Tribunal. They have rightly concluded that the claim of the applicant for compassionate appointment is not in accordance with law and provisions contained in the Department of Personnel & Training, Nodal Ministry, conveyed in Postal Directorate letter No. 37-25/98-SPB-1 dated 21.10.1998 and provision contained in Postal Directorate letter No. 17-17/2010-GDS/1 dated 17.12.2015.

9. We do not find any reason to interfere with the order passed by the respondents. The Original Application is devoid of merit. OA is dismissed. No order as to costs.

(P.K. PRADHAN)
MEMBER (A)

(JUSTICE HARUN-UL-RASHID)
MEMBER (J)