

**Central Administrative Tribunal
Madras Bench**

OA/310/00323/2015

Dated the 12th September Two Thousand Eighteen

P R E S E N T

Hon'ble Mr.P.Madhavan, Member(J)

M.Senthil Kumar,
S/o M.Murugesan,
No.173, South Street,
Uppidamangalam Post,
Karur District. .. Applicant
By Advocate **M/s.P.Rajendran**

Vs.

1. The Union of India, rep by the
Chief Postmaster General,
Tamil Nadu Circle,
Chennai 600 002.
2. The Superintendent,
RMS “CB” Division,
3. Coimbatore 641001. .. Respondents

By Advocate **Mr.G.Dhamodaran**

ORDER

Pronounced by Hon'ble Mr.P.Madhavan, Member(J)

Heard. The applicant in this OA is seeking the following reliefs:-

“To call for the records relating to the impugned order of the second respondent No.B-1/33/RRR/MS dated at Coimbatore 641001 the 29.01.2015 and quash the same and direct the respondents to appoint the applicant on compassionate grounds in any suitable job commensurate with his qualification and grant him all attendant benefits and render justice.”

2. This Tribunal had earlier disposed of this OA with a direction to consider the representation as per order dated 19.9.2006 without going into the merits of the matter. The Hon'ble Madras High Court as per order in WP No.14245/2017 dated 29.6.2017 had set aside the order of the Tribunal and remanded back for disposal according to law.

3. The case of the applicant is that he is the son of deceased M.Murugesan who was working as HSG-II, HAS, RMS, Coimbatore. The said Murugesan died on 30.11.1996. According to the applicant, his mother submitted an application for compassionate appointment in 1999 itself. After giving several representations, the applicant was appointed as Mazdoor on 30.12.2010. The said appointment was by an oral order. After the death of father, the family was in indigent circumstances. The applicant was not given regular appointment till date. He also relies upon the decision of the Hon'ble Supreme Court in Civil Appeal No.7773/2009 wherein 202 employees were appointed on compassionate grounds. The applicant filed OA

1674/2014 seeking a direction from the Tribunal to pass orders on his representation and the Tribunal has directed the respondents to consider and pass orders on the representation on 2.12.2014. The respondents as per order dated 29.1.2015 did not allow the application holding that the Circle Relaxation Committee had found the applicant herein less indigent on the basis of the relative merit points and also due to non-availability of Direct Recruitment vacancy.

4. The counsel would content that the respondents ought to have allowed the application and they should have considered the application on the basis of scheme that was prevailing at the time of death of father. According to him, the RMP procedure came into existence only on 20.1.2010 and this should not have been adopted for rejecting the application.

5. The respondent appeared and filed objection stating that, they had not received any application from the applicant till the year 2006. They denied any oral orders of appointment as mentioned in the OA. The applicant's representation was not having necessary documents and after getting all documents, it was considered by CRC in 2013 alongwith 95 other applicants and the applicant could get only 53 RMP. The points required was 61 and the applicant was considered as less indigent than others who got more points.

6. The counsel for the respondents would content that the compassionate appointment scheme does not give any right to the applicant and it cannot be claimed as a matter of right (Umesh Kumar Nagpal vs. State of Haryana). According to the counsel for the respondents, the RMP procedure was introduced only for making the

procedure for ascertaining indigency transparent and it is not a scheme in itself.

7. Upon an anxious consideration of the submissions made and the pleadings before court, it can be seen that the applicant has not produced any record to show that the applicant had made a representation till the year 2006 (R5). Eventhough applicant would contend that he has made many representations for getting appointment, he could not produce any copy of such representations in the Tribunal. There is also no evidence to show that he was orally appointed as Mazdoor as claimed by him. The respondents have denied such an appointment.

8. The respondent had produced the compassionate appointment scheme as Annexure R1. The copy of RMP scheme was also produced as R2. On going through the RMP system, it can be seen that it was introduced to make the compassionate appointment scheme more transparent and to avoid undue personal influence in the assessment of indigency of the applicant. It cannot be considered as a new scheme for appointment as such. The CRC has considered all aspects of the indigency of applicants and came to the conclusion that the applicant is less indigent than other applicants who have come up before CRC. The proceedings of the CRC and the points received by the applicants is produced as Annexure R8. In State Bank of India & Others vs. Jaspal Kaur (2007) 9 SCC 571 the Hon'ble Supreme Court has held that the matter of compassionate appointment should be decided within the parameters of scheme prevailing when the application for compassionate appointment filed. In this case, the application was filed only in the year 2006 and only the scheme prevailing at that time can be taken into consideration. The scheme

prevailing was that produced as Annexure R1 (OM 14014/6/94-Estt(D) of DoPT dated 09.10.1998. The RMP scheme has not changed the compassionate appointment scheme as such. It had only made the procedure more transparent and to avoid unnecessary considerations creeping in the selection of the persons who are most indigent and in need of support. Another contention put forward is that in a similar case, the Hon'ble Supreme Court has ordered for the appointment of 202 persons (Annexure A1). On going through Annexure A1 (Civil Appeal No.7773/2009 dated 30.7.2010) it can be seen that the facts are not similar. The M/o Communications in that case had recommended 204 persons for appointment, who are already working in various short term/leave vacancies for various years 2001 to 2009 and the appointments were given as one time measure as department had agreed that they are willing to accommodate them against residual vacancies of the department and the Hon'ble Supreme Court has ordered the same. The Hon'ble Supreme Court has left the question of law open. In this matter, the applicant's case is not similar and the said decision will not come to the hold of applicant. So there is no merit in the arguments raised by the applicant herein.

9. In the result, this OA lacks merit and it is dismissed accordingly. No costs.

**(P.Madhavan)
Member(J)**

12.09.2018

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