

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00044/2017
Dated Friday the 20th day of July Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

K.Karthikayan,
No. 7, Sellaperumal Koil Street,
Kosupalayam,
Pondicherry 605013.Applicant

By Advocate M/s. S. Ramaswamyrajarajan

Vs

Union of India rep by,
1.The Chief Postmaster General,
Tamil Nadu Circle,
Chennai 600002.

2.The Senior Superintendent,
Pondicherry Division,
Pondicherry 605001.Respondents

By Advocate Mr. K. Ramaswamy

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"i. To direct the 1st respondent to come forward to implement his/her own order No. REP/32-1/2002-CAT, dt. 27.02.2015 and give the applicant compassionate appointment either in MTS cadre or in Postman cadre or give him regular appointment in the cadre of DMMS Driver taking into account his service rendered as driver on casual basis from 2007-2013 without break.

ii. To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case with cost. "

2. It is submitted that the applicant's father while working as Group D in Puducherry division expired on 12.05.1999 leaving behind his wife, two daughters and the applicant. The applicant sought compassionate appointment by a representation dt. 01.09.2001. However, though his case could not be considered as the matter was alleged to be subjudice till 2010, he was engaged as a driver for some time after which he was disengaged following regular appointment of a regular driver. The applicant filed OA 962/2013 before this Tribunal which was disposed of by an order dt. 22.01.2015 directing the respondents to consider his case in subsequent years on a comparative assessment of eligible claimants taking note of the facts that the applicant's services were utilised for a fairly long period as a driver and when the regular driver goes on leave, the applicant could be engaged as a driver. However, the respondents passed Annexure A9

impugned order dt. 27.02.2015 rejecting the claim of the applicant for the following reasons :

"i. He is less indigent as per the relative merit points compared to the candidates whose applications were processed along with him and whose cases were found to be more deserving.

ii. Non availability of 5% Direct Recruitment vacancy. "

3. Learned counsel for applicant would submit that the respondents had not even mentioned whether the direction contained in the order of this Tribunal dt. 22.01.2015 to the effect that the applicant would be given some priority as he had been engaged as a driver for a long period and if appointed, his services could be utilised as a driver whenever a regular driver went on leave was considered or not. However, the respondents had stated that the matter would be placed before the next CRC meeting and would be considered by the CRC for the vacancies of subsequent years on a comparative assessment of his merit along with other cases. However, the applicant had not heard about the fate of his claim in the subsequent CRC meetings although more than three years have passed since. He would accordingly seek appropriate directions.

4. Learned counsel for respondents would, however, oppose the relief sought by the applicant stating that the observations regarding the applicant being considered to be granted some priority for working

as driver were not mandatory. The respondents were bound by the provisions of the scheme which did not allow granting extra points for such experience of persons who had been engaged in the interim pending consideration for regular appointment. As for the grievance that the applicant had not been informed of any development after the impugned order inspite of passage of three years of time, it is submitted that some OAs seeking appointment against available vacancies were pending before the Tribunal following remission of the cases back by the Hon'ble High Court and it would not be possible for the respondents to hold the next CRC meeting as there was no clarity regarding the number of posts that would be available, if the applicants therein were granted relief by the Tribunal.

5. I have considered the facts of the case as well as the submissions made by the rival counsel. It is not in dispute that the grounds agitated in this OA had already been considered in OA 962/2013 and an order was passed by this Tribunal on 22.01.2015. It was noted therein that the applicant did not have adequate merit points to be selected and, therefore, it was directed that the applicant's case could be considered in the subsequent years on a comparative assessment of the merits of the eligible claimants taking note of the fact that applicant's services were utilised for a fairly long period as a driver and when a regular driver went on leave, his services could be

utilised as a driver. There is no evidence that the respondents granted any priority to the applicant as directed. On the other hand, it is submitted that the scheme did not provide for grant of such priority and, therefore, the applicant could not be accommodated under the said direction.

6. A perusal of the impugned order reveals that the relative merit points scored by the applicant was only 54 against the relative merit points of 75 of the last selected candidate in the PM cadre and 91 in the MTS cadre. It is stated that 136 applicants scored higher merit points above the applicant in the PM cadre and below the last selected candidate. Further, 13 candidates including the applicant had received 54 merit points. For the MTS cadre, 145 applicants had obtained higher relative merit points between 55 and 90 and 8 candidates had received 54 merit points. In such circumstances, even if the applicant were to be given some merit points for having worked as a driver for a long period, it is unlikely he would get anywhere near to the merit points scored by the last selected candidate. As such, I am of the view that this OA could not be entertained on this ground.

7. Regarding vacancies in subsequent years, the submission of the respondents does not appear to be very convincing. At any given point of time, there would always be some cases in dispute before the Tribunal or Court. This would not constitute sufficient justification for

not holding CRC meetings at all, year wise. If the authorities were to keep posts vacant to accommodate uncertain outcomes in pending cases, it would never be possible to conduct CRC meetings as there would always be cases pending before the Courts at any given point of time. I am, accordingly, of the view that the respondents must proceed with consideration of cases year wise in terms of available vacancies unless specifically restrained from doing so by a Court order.

8. OA is disposed of with the aforesaid observations. No costs.

**(R. Ramanujam)
Member(A)
20.07.2018**

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