

**Central Administrative Tribunal
Madras Bench**

OA/310/01588/2016

Dated 09th day of October Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. T.Jacob, Member(A)

M.Kanagadurga
D/o late N.Mohan,
No.208, Anna Nagar,
O.M.S.Backside, Vembarpatti,
Dindigul District 624 308. .. Applicant

By Advocate **M/s.S.Kalimuthu**

Vs.

1. Union of India, rep by
The Chief General Manager,
Postal Accounts & Finance Department,
Tamil Nadu Circle, Chennai 600 008.
2. Assistant Chief Accounts Officer,
O/o The General Manager,
Postal Accounts & Finance Department,
Tamil Nadu Circle, Chennai 600 008.

.. Respondents

By Advocate **Mr.M.Kishore Kumar**

ORDER

Pronounced by Hon'ble Mr.T.Jacob, Member(A)

The applicant has filed this OA seeking the following reliefs:-

“(a) To set aside the order passed by the 2nd respondent dated 21.12.2015 bearing No.2556/Admn.I/EA VII/Comp.Apptt.

(b) To direct the respondents to provide suitable employment to the applicant on compassionate grounds based on her qualification.

(c) To bear the cost of the appeal and

(d) To pass such further order or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Learned counsel for the applicant submits that the applicant is the daughter of Shri N.Mohan who was bearer of Departmental Canteen of the respondents office. He died on 13.1.2005 while in service, leaving behind, his wife and the applicant herein. Thereafter, the applicant's mother died on 13.8.2006. The applicant possessed B.Com Degree and MBA. She got married on 06.2.2012. It is submitted that after the death of the applicant's father her mother made representation for compassionate appointment and later after the death of the mother the applicant made representation after attaining majority. Based on her request, the 2nd respondent directed the applicant to produce the necessary documents and the applicant produced all the required documents and information sought. But by order dated 21.12.2015 of the 2nd

respondent, her request for compassionate appointment was rejected on the ground that she is married and not eligible for such appointment. Aggrieved, she has filed this OA seeking the aforesaid reliefs.

3. The respondents contest the claim of the applicant stating that eligibility or otherwise for compassionate appointment will have to be examined only by the Circle Relaxation Committee constituted for the purpose. Circle Relaxation Committee (CRC) was not held after 2000, as the matter of compassionate appointment was subjudice. After complying with the orders of Hon'ble Supreme Court dated 30.7.2010 in SLP No.2976/2008 (CA No.7773/09), CRC was held in the year 2012 to consider all the compassionate appointment pending and fresh cases received upto 05.3.2012, against the 5% DR vacancies accrued for the year 2010 and 2011. As per the educational qualification of +2 and as per the records submitted by the applicant her case was examined for the post of PA/SA/PM/MTS cadre in CRC 2012 & 2015 in the light of the instructions laid down under the scheme of Relative Merit Points for compassionate appointments vide Postal Directorate letter dated 20.1.2010. For each and every attributes submitted by the applicant, relative merit points applicable were allocated and she got only 61 RMPs. The RMPs for the last selected candidate in all the cadres are as follows:-

Year of CRC	RMP of last selected candidate in		
	PA/SA	Postman	MTS
2012	69	75	91
2015	66	73	85

Hence, her case was not recommended by the CRC for (1) non availability of DR vacancy in the respective cadre under RRR quota (2) less indigent as per Relative Merit Points under RRR quota. As the required qualification for the post of PA/SA cadre is 10+2 standard or 12th class pass, as per the Recruitment Rules, no weightage could be given for higher qualification possessed by the applicant and thus she was considered for the post of PA/SA cadre.

4. It is further submitted by the respondents that while re-examining the case of the applicant, it was noticed that she got married and there was no dependent to support in the family. Hence, vide intimation of the Chief PMG by letter dated 19.10.2015, the case of the applicant could not be considered again and treated as closed in view of the Directorate's letter No.66-23/2005-SPB-1 dated 15.7.2005 for the reason that there is no dependent for the deceased official and the applicant being the adopted daughter got married. The said decision was communicated to the applicant by letter of the 2nd respondent dated 21.12.2015. Further, married daughter's cases were examined in CRC-2015. Even though the applicant got married during the year 2012 as alleged by her in the OA, her case was examined in CRC-2012 & 2015 and not recommended. Hence, the action of the respondents are in accordance with law and as per the instructions issued by Postal Directorate, it is contended. The respondents cited the decisions of the Hon'ble Supreme Court in the cases of State of Jammu & Kashmir Vs Sajad Ahmed Mir (2006 SCC (L&S) 1195), Sushma Gosain Vs UOI (1984 (4) SCC 468) and Union of India Vs B. Kishore (2012 (2) SCC (L&S)) and submitted that the appointment on compassionate grounds

cannot be claimed as a matter of right. Therefore, they prayed for dismissal of the OA.

5. Heard the learned counsel for the applicant and the respondents and perused the material available on record.

6. Learned counsel for the applicant submitted that the impugned order is cryptic and states that “It is learnt that you are married. Hence you are not eligible for compassionate appointment. As there is no dependent for the deceased official the case is treated as closed.” This is not correct, seen in the light of the frequently asked question and the answer thereto stated by the respondents in their reply which states as follows:-

Sl.No.	Question	Answer
12	Whether a 'married daughter' can be considered for compassionate appointment?	Yes, but subject to conditions: i. That she was wholly dependant on the Government servant at the time of his/her death in harness or retirement on medical grounds. ii. She must support other dependants members of the family.

He also relied upon the decision of the Hon'ble High Court of Madras in WP No.10565/2015 dated 13.4.2015 and WP No.2107/2016 dated 29.1.2016 in support of his claim.

7. Learned counsel for the respondents however, states that a married daughter

would be considered for compassionate appointment only if she was wholly dependant on the Government servant at the time of his/her death in harness or retirement on medical grounds and was required to support other dependant members of the family. In this case, no other dependant member of the family is alive and the applicant was also not wholly dependant on the Government servant, it is contended. After CRC-2015 all the not recommended cases were re-examined based on the Postal Directorate's instructions dated 12.6.2013. Further, Postal Directorate vide their letter dated 15.7.2005 instructed that the compassionate appointment cases which do not fall within the ambit of the scheme for compassionate appointment should be rejected outright. Even in the latest judgment of the Hon'ble Supreme Court in CA 6224/2008 dated 23.5.2012 UOI Vs. Shashank Goswami & Another it was held that rejection of compassionate appointment is valid when the applicant does not satisfy the parameters prescribed.

8. I have carefully examined the facts of the case as well as the rival contentions presented by the rival counsel. If the information contained in the reply statement is relied upon, it could be said that the respondents had rejected the claim of the applicant on valid grounds. However, the impugned order does not mention all the relevant facts to justify the said rejection. After a careful consideration of the matter, it does not appear necessary to go into the issue of whether the applicant was indeed the married daughter of the deceased employee and whether she could make such a claim only on the basis of her nomination by the deceased employee for compassionate appointment. It is an admitted fact that at the time of death of the

government employee in the year 2005 the applicant was a minor. Her mother died in the year 2006. Till she attained majority the dependent of the deceased employee survived at the cost of several others. The applicant got married in the year 2012. The respondents have rejected the claim of the applicant for compassionate appointment on the ground that the applicant is married and there is no dependent for the deceased official. Even assuming, but not admitting that she is the dependent daughter of the deceased employee, I find that there is no other surviving family members like widowed daughters, widowed mother etc. of the deceased employee whom the applicant should support. In order to establish a lawful claim, the authorities need to be convinced first that the family of the deceased employee was indigent and had to be supported by granting employment to an eligible member. After a careful perusal of the documents produced by the applicant, I am of the view that the applicant prima facie could not establish her alleged dependency on the deceased employee nor she produced any evidence in this regard. The following factors disentitle the applicant to the relief claimed:-

- a. The applicant having got married, she has got her spouse to support her.
- b. There is no dependent of the deceased whom the applicant is to support.
- c. No rule explicitly or tacitly brings the applicant within the fold of her entitlement to compassionate appointment.
- d. The compassionate appointment is not a source of recruitment and it is meant only to help the family to tide over the financial crisis the family will face due to sudden loss of the bread winner.

A perusal of the orders of the Hon'ble High Court of Madras in WP No. 10565/2015 and WP No. 2107/2016 shows that the facts of those cases are distinguishable from the facts in this case.

9. In view of the above, I see no reasons to interfere in the matter and direct the respondents to act otherwise. OA is devoid of merit and the accordingly dismissed.

No costs.

(T.Jacob)
Member(A)
09.10.2018

/G/SKSI