

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00155/2018

Dated Wednesday the 7th day of February Two Thousand Eighteen

PRESENT

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

Mrs. Thamiselvi,
W/o late V.M.Subburathinam,
Ex-GDS/MD, Vangal East BO,
Vangal 639116, Karur Postal Division,
Residing at : at No. 9/30, E.V.R.Street,
Vangal 639116, Karur District.Applicant

By Advocate M/s. P.R.Satyanarayanan

Vs

Union of India represented by :

1.The Secretary,
Department of Posts,
Ministry of Communications & IT,
Dak Bhavan, New Delhi 110001.
2.Chief Postmaster General,
Tamilnadu Circle, Chennai 600002.
3.Postmaster General,
Central Region, Tiruchirapalli 620001.
4.Superintendent of Post Offices,
Karur Division, Karur 639001Respondents

By Advocate Mr. K. Rajendran

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 relief:

“To call for the records relating to the letter no. 19-19/2009-GDS dated 21.02.2012 issued by Govt. of India, Ministry of Communications & IT, Department of Posts, New Delhi 110001 and also proceedings no. B3/RRR-5/2014 dated 09.10.2015 and No. REP/36-Misc/01/2017 dated 14.07.2017 passed by the fourth and second respondent respectively and declare the letter no. 19-19/2009-GDS dated 21.02.2012 as arbitrary, discriminatory and unconstitutional and thereby declare the proceedings no. B3/RRR-5/2014 dated 09.10.2015 and no. REP/36-Misc/01/2017 dated 14.07.2017 passed by the fourth and second respectively as arbitrary and illegal and direct the respondents to appoint the applicant as GDS under compassionate grounds in any suitable post and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. Learned counsel for the applicant would submit that the applicant is aggrieved by non-consideration of her case for compassionate appointment even though her husband late V. M. Subburathinam, Ex-GDS/MD was medically invalidated on 15.05.2013. In terms of the relevant rules and executive instructions, the family of such an invalidated person is entitled to compassionate appointment, it is urged. However, the respondents took a stand that the relevant instructions governing compassionate appointment were only applicable to those who were medically invalidated upto the year 2010 when the authorities, in terms of the provisions of Section 47 of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995 decided not to medically invalidate any person henceforth. As the applicant's husband ought not to have been medically invalidated and the same was done in violation of the

said Act, the authorities insist that the question of compassionate appointment to his family would not arise.

3. Learned counsel for the applicant would argue that it was not the fault of the applicant's husband that he was medically invalidated inspite of clear provisions in the aforesaid Act to the contrary. As such, his case should have been considered on par with those who were medically invalidated before 2010 as the said Act had come into force from 1995 itself. He would also point out that the Department of Pensions and Pensioners Welfare by OM dt. 30.09.2016 had clarified that whenever such a Government Servant wished to retire, his case could be processed as per the provisions of Central Civil Services (Extraordinary Pension) Rules. This would imply that the Government had taken a decision to ensure that the provisions of the Act were not applied in a manner detrimental to the disabled employee.

4. Learned counsel would further submit that the applicant had made a detailed representation to the authorities dt. 19.04.2017 to the authorities in this regard at Annexure A16 which had been disposed of by a cryptic and non-speaking communication stating that her case had been examined and that she was not eligible for compassionate appointment as per rulings on the subject. The applicant would accordingly be satisfied if the authorities are directed to consider her case and pass a detailed and speaking order in the light of the fact that it was not the fault of the applicant's late husband that he was medically invalidated inspite of the provisions in the Act to the

contrary and also the decision of the Central Government in the aforesaid OM of Department of Pension and Pensioners Welfare whereby an option has been given to Central Government servants to retire if they wished to. The applicant may also be permitted to supplement the representation with any additional material and citations by higher Courts, it is urged.

5. Mr. K.Rajendran takes notice for the respondents and submits that if time is granted a detailed reply would be filed.

6. Be that as it may, in view of the limited prayer and the fact that the disposal of the applicant's representation was by a non-speaking communication, I deem it appropriate to dispose of this OA with the following directions:

“The applicant is permitted to supplement her Annexure A16 representation dt. 19.04.2016 with any additional material in her possession within a period of three weeks from the date of receipt of a copy of this order. The competent authority shall thereafter pass a reasoned and speaking order on the contentions raised by the applicant in such representation within a period of two months thereafter.”

7. OA is disposed of with the above directions at the admission stage.

**(R. Ramanujam)
Member(A)
07.02.2018**

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