

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD**

**OA/020/87/2016**

**Dated: 31.01.2018**

**BETWEEN:**

K. Ram Murthy,  
S/o. Late K. Manikyam,  
Aged about 38 years,  
R/o. D.No.13-18-58,  
Nallamvari Thota, Gunupudi,  
Bhimavaram Mandal,  
West Godavari District.

.... Applicant

**AND**

1. Union of India rep. by  
The Secretary/ Directorate,  
Department of Posts,  
DAK Bhavan,  
New Delhi – 110 001.
2. The Chief Postmaster General,  
A.P. Circle, Hyderabad.
3. The Postmaster General,  
Vijayawada Region,  
Vijayawada, Krishna District.
4. The Senior Superintendent of Post Offices,  
Bhimavaram Division,  
Bhimavaram,  
West Godavari District – 534 201.

... Respondents

Counsel for the Applicant : Mr. B. Chandra Sekhar  
Counsel for the Respondents : Mr. M. Brahma Reddy,  
Addl. CGSC.

**CORAM**

Hon'ble Mrs. Minnie Mathew, Administrative Member

## **ORAL ORDER**

{Per Hon'ble Mrs. Minnie Mathew, Administrative Member }

Heard Mr. B. Chandrasekhar, learned counsel appearing for the applicant and Mr. Bhim Singh representing Mr. M. Brahma Reddy, learned Standing Counsel for the Respondents.

2. This O.A. has been filed seeking the following relief:

*"It is therefore prayed that this Hon'ble Tribunal may be pleased to declare the Proceedings of the 2<sup>nd</sup> Respondent dated 23.6.2015 vide RE/CA/ Dept/ OA 544/2015 in rejecting the case of the applicant for engagement as GDS in the Department as illegal, arbitrary and contrary to the proceedings issue by the respondents 2 and 3 herein dated 10.2.2012 and 13.2.2012 vide RE/RTI/MIS/8 and K1/ RTI Act-2005 respectively. Consequently direct the respondents herein to forthwith consider and appoint the applicant as GDS or any other equivalent posts in the department under compassionate grounds and to pass such other order/s as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."*

3. The applicant submits that aggrieved by the non-consideration of his application for compassionate appointment submitted to the Respondents on 18.3.2015 he had earlier filed O.A. No.544/2015. This O.A. was disposed of by this Tribunal directing the Respondents to consider and dispose of his representation dated 18.3.2015 by a reasoned and speaking order within a period of two months. The Respondents have again rejected his case on the ground that he is found to be not eligible for engagement as GDS as the Scheme of offering GDS posts to departmental officials is not in vogue after 24.7.2003 as per the instructions of DG Posts. Aggrieved by this order, he has filed the present O.A.

4. The main ground urged by the applicant is that similarly situated dependents of the departmental officials have been considered against

GDS vacancies in the past. He furnished the details of such appointments made from 25.7.2003 to 7.2.2012 as gathered by him under the RTI Act, which establishes that to the dependents of the departmental officials were considered for compassionate appointment against GDS posts. Hence, non-consideration of his case along with similarly situated persons is contrary to the provisions of the Law and the Principle of Equality among Equals.

5. The Respondents have filed a reply statement contesting the O.A. They submit that the applicant's father, while working as Group 'D' in Bhimavaram Postal Division, expired on 3.3.1999 after rendering more than 17 years of service. The terminal benefits and the family pension have been sanctioned to the family of the deceased official. The case for compassionate appointment of the applicant was processed and placed before the Circle Relaxation Committee on 14.4.2000. However, he did not merit selection among all the other cases placed before the CRC and also for want of sufficient number of vacancies under 5% quota of the vacancies under Direct Recruitment quota. Aggrieved by this, he filed O.A. 170/2004 which was dismissed as withdrawn on 20.7.2004. He later filed OA No.764/2007 which was disposed of with a direction to the Respondents to consider his appointment on compassionate grounds against GDS vacancies in his own turn and when vacancies arise in either Bhimavaram Division or anywhere in the Circle. In compliance of these orders, the CRC has re-considered the claim and passed a detailed reasoned speaking order on 16.10.2008 stating that as per Directorate's

order dated 21.8.1996, GDS posts should not be offered to the dependents of the deceased departmental officials. Aggrieved by this order, he filed another O.A. No.159/2010 which was dismissed by this Tribunal on 27.9.2010 as being devoid of merit. The Review Application No.45/2010 in O.A. No.159/2010 filed by the applicant was also dismissed. Thereafter, the applicant filed Writ Petition No.1740/2011 before the Hon'ble High Court of A.P. which is still pending adjudication. The Respondents also submit that in compliance of the orders of this Tribunal in various O.As, the CRC has considered the case of the applicant for appointment to departmental/ GDS cadres up to June 2015 and found that he did not merit selection in the comparative study of indigent circumstances among the other cases placed before CRC. Further, the objective of the scheme of compassionate appointment is to provide immediate relief to the family of the Government servant and as held by the Hon'ble Supreme Court in **Umesh Nagpal's** case, compassionate appointment cannot be given after lapse of a reasonable period.

6. During the course of the arguments, learned counsel for the applicant argued that this O.A. has arisen on account of a fresh cause of action as the information received by him under the RTI Act showed that similarly situated persons have been provided with compassionate appointment against GDS vacancies even when the Respondents have submitted that such appointment is prohibited as per the instructions of the Department of Posts. He also submitted that on the directions issued by this Tribunal, similarly situated persons have also been accommodated

by the Respondents against GDS vacancies. Therefore, the applicant is entitled to the same relief.

7. Mr. Bhim Singh representing Mr. M. Brahma Reddy, learned Standing Counsel, on the other hand, submitted that the applicant had earlier approached this Tribunal seeking the same relief for compassionate appointment which has already been dismissed by this Tribunal in O.A. No.159/2010. Hence, he cannot approach this Tribunal with the same prayer and consequently the O.A. is hit by the principle of *Resjudicata*.

8. I have considered the submissions on both sides and perused the record.

9. On a perusal of the earlier O.A. No.159/2010 it is seen that the applicant had filed the said O.A. for a direction to consider his representation dated 15.7.2000, 31.8.2006 and 13.11.2006 for compassionate appointment in any Group 'D' or GDS post in Bhimavaram Division or anywhere in A.P. Circle sympathetically and pass appropriate orders. The said O.A. was dismissed on 21.9.2010 as being devoid of merit. The Review Application filed by the applicant was also dismissed and the matter is reportedly pending before the Hon'ble High Court. This O.A. has also been filed seeking a direction to the Respondents to appoint him as GDS or in any other equivalent post in the department. Thus, it is clear that the applicant has not only filed this O.A. seeking the same relief as in O.A. No.159/2010 but has also suppressed

the fact of filing an earlier O.A. in this regard.

10. Further, while dismissing O.A. No.159/2010, the Tribunal has given the following finding:

*“..... The 3<sup>rd</sup> Respondent has categorically given reason for not offering appointment to the applicant in the post of GDS. On going through the instructions and factual position I find nothing wrong in the decision taken by the 3<sup>rd</sup> Respondent. In view of the fact that Tribunal has already directed the respondents to consider the applicant for appointment on compassionate ground against the GDS vacancy and has observed that the applicant has already been considered for the post of Group ‘D’, I am of the view that judgement of the Hon’ble High Court of Patna relied upon by the applicant has no application in this case.*

*8. In view of the above discussion, the O.A. is dismissed being devoid of merit with no order as to costs.”*

11. Thus, it is clear that this Tribunal did not find anything wrong with the reasons given for not offering appointment to the applicant to the post of GDS and that the earlier O.A. has been dismissed on merit. In view of the fact that the prayer which has been made in this O.A. has already been considered and dismissed on merit in O.A. No.159/2010, I hold that this O.A. is not maintainable as it is barred by *Resjudicata* and that there is no merit in the argument that a fresh cause of action has arisen. Further, the Writ Petition against the aforesaid orders of this Tribunal is pending before the Hon’ble High Court at Hyderabad.

12. In view of these circumstances, the O.A. is dismissed. No order as to costs.

**(MINNIE MATHEW)**  
**ADMN. MEMBER**

Dated the 31<sup>st</sup> January, 2018  
(Dictated in the Open Court)

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