

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00167/2017

Date of CAV : 04-09-2018
Date of Order : -10-2018

Between :

K. Sekhar Babu S/o late K. Prabhakara Rao
(Ex-GDS/Mail Deliverer/Mail Carrier,
Puligadda B.O a/w Avanigadda H.O.),
Aged about 38 years, R/o Puligadda B.O.
a/w Avanigadda HO, Machilipatnam Division,
District Krishna.Applicant

AND

1. Union of India, represented by
The Director General, Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-1.
2. The Chief Postmaster General,
A.P.Circle, Hyderabad.
3. The Postmaster General,
Vijayawada Region, Vijayawada.
4. The Superintendent of Post Offices,
Machilipatnam Division, Machilipatnam-521 001,
District Krishna. ...Respondents

Counsel for the Applicant: Mrs. Rachna Kumari

Counsel for the Respondents : Mr.M.VenkataSwamy, Addl. CGSC

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the Administrative Tribunals Act, 1985

- (a) To call for the records pertaining to the impugned order No.RE/CA/GDS/O.A.995/2014, dated 31.12.2014, rejecting the case of the applicant for compassionate appointment on the ground that he got 46 points against the minimum required number 51 points, having secured the merit points as per the extant rules as modified vide OM No.17-17/2010-GDS, dated 17.12.2015 of Ministry of Information and Technology, Department of Posts, New Delhi and declare the inaction on the part of the Respondents to consider the case of the applicant for compassionate appointment as per extant rules and set aside the same declaring the inaction of the Respondents to consider the case of the applicant as arbitrary, illegal, unwarranted, misconceived and in violation of Articles 14 and 16 of the Constitution of India;
- (b) To set aside the impugned order No.RE/CA/GDS/O.A.995/2014, dated 31.12.2014 of the 2nd Respondent, rejecting the case of the applicant for compassionate appointment, denying the compassionate appointment to the applicant, declaring the same as arbitrary, illegal, unwarranted, misconceived frivolous and in violation of Articles 14 & 16 of the Constitution of India;
- (c) To direct the Respondents to consider the case of the applicant for compassionate appointment duly re-considering the case as per the revised/extant rules prevailing as on date and consider granting compassionate appointment on the basis of eligibility points secured by the applicant;

With all the consequential benefits;

and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that the applicant's father while working as GDS / Mail Deliverer / Mail Carrier, Puligadda BO, account with Avanigadda HO in Machilipatnam Division of Krishna District died in harness on 13.08.2012 due to Heart attack. Wife of the deceased employee was paid an amount of Rs.46,750/- towards settlement of Severance allowances vide memo dated 31.10.2014.

3. The applicant further submits that his father has not acquired any House nor any landed property and belongs to SC community. Applicant passed SSC in March, 1994 and also studied intermediate with MLT group (Medical Lab Technician Course during the period 2009-2011). In view of the indigent circumstances of the family of the deceased, the applicant submitted representation dated 01.12.2012 to the 4th Respondent requesting for compassionate appointment and the same was rejected vide order dated 07.07.2014.

4. Aggrieved by the rejection order of the 4th Respondent, the applicant filed OA No.995/2014 for redressal of his grievance. The said OA was disposed of at the admission stage directing the Respondents 'to place the matter once again before the Circle Relaxation Committee and pass a reasoned and speaking order indicating the points allotted to the applicant under the various parameters in the scheme for compassionate appointment within a period of two months from the date of receipt of a copy of this order.'

5. The applicant submits that, in pursuance of the order passed in OA No.995/2014, his claim has again been considered by the Respondents and the Respondents issued impugned order No.RE/CA/GDS/O.A.995/2014, dated 31.12.2014 stating as follows :-

"(a) applicant got 46 points against the minimum required number of 51 points as prescribed by Directorate vide Lr.No.17-17/2010-GDS on 14.12.2010 & 09.03.2012 & 13.04.2012 & 09.10.2013 to be eligible for compassionate engagement for GDS Post.

(b) as per the observations of the Hon'ble CAT, Hyderabad in its order

cited above, the details of merit points secured by the applicant and also points under each head is furnished vide Annexure"

Hence this application.

5. Respondents have filed reply statement stating that, wife of the deceased employee is an illiterate and hence not eligible for engagement to GDS post. The family of the deceased employee has been paid terminal benefits to the tune of Rs.1,64,180/- (Rupees one lakh sixty four thousand one hundred and eighty only). The Respondents also state that, the existing procedure has been reviewed by Postal Directorate and a new scheme for engagement of GDS on Compassionate Grounds and a merit points based selection procedure was introduced vide 1st Respondents letter dated 14.12.2010 applicable to all compassionate cases to be considered on or after 01.01.2011. All requests for compassionate engagement would be considered by the Circle Relaxation Committee on application of the relative merit points prescribed in Postal Directorate letter dated 14.12.2010 in hard and deserving cases. The term 'hard and deserving cases' would mean cases over and above 50 merit points. As per Para 3 of Postal Directorate letter dated 14.12.2010 each case has to be assessed on merit and only exceptional and deserving cases are to be considered for compassionate engagement as the scheme stipulates that compassionate engagement is to be given only in 'indigent and deserving cases'. Also, as per Para-3 of Directorate Letter dated 09.03.2012 and modified vide Directorate Lr. Dated 13.04.2012 the criteria for adjudging 'hard and deserving cases', would mean cases receiving over and above 50 merit points.

6. The respondents further state that, the applicant's request for engagement on compassionate grounds was processed as per the scheme and guidelines and required proposal was submitted to 3rd Respondent vide letter dated 28.01.2013 duly preparing the merit points applicable to the applicant's case in the light of the above mentioned guidelines / instructions and required information was also submitted to the 3rd Respondent vide letter dated 21.06.2013, 05.08.2013 and 10.03.2014. The applicant's case has secured 46 merit points as per the scheme and guidelines on the subject.

7. The Circle Relaxation Committee did not recommend the case for engagement under compassionate grounds to GDS post / cadre as the applicant's case has not secured the prescribed merit points of 51 and above. It is submitted that the 3rd Respondent has informed the decision of the Circle Relaxation Committee vide letter dated 03.07.2014 with further directions to inform the same to the applicant about the reasons for non recommendation and also directed to fill up the GDS Posts which have fallen vacant due to death of the regular incumbents immediately as per rules, if no court case / transfer cases are pending against those rejected / not recommended cases by the Circle Relaxation Committee which met on 24.06.2014. Accordingly the decision of the Circle Relaxation Committee was communicated to the applicant vide letter dated 07.07.2014. Further, the applicant was issued with a detailed reasoned speaking order dated 31.12.2014.

8. In the meantime, the Government / Department has issued revised guidelines to the Scheme for engagement of dependent of deceased Gramin Dak Sewaks on compassionate grounds vide Directorate, New Delhi letter No.17-17/2010-GDS, dated 17.12.2015, in which the threshold for adjudging hard and deserving cases is revised as 36 merit points in place of existing 51 points. However, the Department of Posts has issued a corrigendum to its earlier letter dated 17.12.2015 vide Directorate's letter dated 10.06.2016 stating that "the revised provisions will be given effect from the date of issue of these instructions in respect of those cases considered in CRCs held after 17.12.2015 and ordered that the cases already settled before 17.12.2015 need not strictly be reopened". The Respondents rely on the Hon'ble Supreme Court judgment dated 04.07.1994 in the case of Umesh Kumar Nagpal Vs. State of Haryana & Other (JT 1994 (3) SC 525), order dated 07.08.2013 in CA No.6348/2013 between M.G.B.Gramin Bank Vs. Chakrawarthy Singh and CAT, Admedabad Bench order dated 19.04.2010 in OA No.179/2009 in the case of Sri Brijesh Kumar D. Patel Vs. UoI & Others and various other decisions and prays for dismissal of the OA.

9. We have heard Mrs. Rachna Kumar, learned counsel for the applicant and Mr.M.Venkataswamy, learned Addl Central Government Standing Counsel for Respondents.

10. During the course of arguments, learned counsel for the applicant produced copy of order dated 29.08.2018 passed in OA/020/1140/2016,

wherein this Tribunal had directed, 'to reconsider the applicant's case as per the new scheme and letter dated 17.12.2015'.

11. The judgment in the said OA is not applicable to the facts and circumstances to the present case since the said case it is found that the Respondents had rejected the application or compassionate appointment of the applicant in the said case on 30/31-5-2012. The said order was set aside by this Tribunal in OA No.1007/2012 as per order dated 29.01.2016. Therefore by the time Circular dated 17.12.2015 was issued by the Directorate, the matter was pending before this Tribunal. Hence the facts and circumstances of the said case it was held by this Tribunal that the application of the applicant in the said case should be treated as pending. But in the present case no such case was pending before this Tribunal. OA No.995/2014 filed by the present applicant against the rejection order dated 07.07.2014 was disposed of on 28.8.2014. Again the representation of the applicant was considered as per the directions of this Tribunal in OA No.995/2014 and the said representation was again rejected. Therefore by no stretch of imagination the matter / case can be treated as pending before the Respondents for the purpose of taking aid of the circular dated 17.12.2015.

12. The applicant has secured 46 points as against required number of 51 points, the Respondents have rightly rejected the applicant's claim as the case is devoid of merits. Accordingly the OA is also dismissed.

13. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : October, 2018.

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