

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00203/2017

Date of CAV : 24-09-2018
Date of Order : 09-10-2018

Between :

P. Suresh S/o Late P. Anandaiah,
Aged about 32 years, working as Substitute GDS /
Delivery Agent, now not working,
Kommalapudi B.O. a/w Manubolu S.O.,
Gudur Division, PSR Nellore District.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 Senior Superintendent of Post Offices,
Gudur Division, PSR Nellore District.
5. The Inspector, Posts, Gudur North
Sub-Division, Gudur-524 101, PSR
Nellore District. ...Respondents

Counsel for the Applicant: Mrs. Rachana Kumar

Counsel for the Respondents : Mr. T. Hanumantha Reddy, 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 A. T. Act, 1985 for the following reliefs :-

- (a) To call for records pertaining to the impugned order No.RE/CA/GDS/OA 39/2015, dated 17.08.2016 of the 2nd Respondent rejecting the case of the applicant for appointment on compassionate grounds on wrong calculations of attributable points, without considering the case of the applicant for appointment on compassionate grounds, declaring the same as arbitrary, illegal, unwarranted, and 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/OA 39/2015 dated 17.08.2016 of the 2nd Respondent rejecting the claim of the applicant for compassionate appointment, declaring the same as arbitrary, illegal, unwarranted, and misconceived and in violation of Articles 14 and 16 of the Constitution of India ;
- (c) To direct the Respondents to consider the case of the applicant for appointment on compassionate grounds, as per the then existing rules prevailing as on 30.04.2010, when the applicant father dies, as per the observations of the Hon'ble High Court of AP in WP No.31470/2014 dated 24.10.2014 duly considering the indigent conditions of the family of the deceased ;

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 Carrier, Kommalapudi BO a/w Manubolu S.O. Gudur Division, in PSR Nellore District, dies in harness on 30.04.2010 leaving behind his wife, two unmarried daughters and one married son. The family was paid death cum retiral benefits to the tune of Rs.93,261.00 (Rupees ninety three thousand two hundred and sixty one only).

3. The applicant further submits that, the family of the deceased employee spent huge amounts for the treatment of the deceased official and the family is in indigent conditions. The applicant submits that he has passed 10th Class and his two unmarried sisters have given 'no objection' for considering his case for compassionate appointment. Based on the applicant's representation dated 05.08.2010 to the 4th Respondent, the applicant was appointed as Substitute GDS/ Delivery Agent, Kommalapudi BO with effect from 01.05.2010.

4. Thereafter, vide order dated 28.05.2012, 4th Respondent intimated that the applicant's case was not recommended for compassionate appointment in the CRC, dated 10.05.2012 on the ground that he has secured below 51 points. Aggrieved with the above rejection order dated 28.05.2012, applicant had filed OA No.1447/2012. Consequent to the order passed in OA No.1447/2012, 2nd Respondent vide order dated 21.08.2014 rejected the applicant's claim once again with a reasoned and speaking order and also furnished the marks under each head.

5. The applicant submits that he made discreet enquiries with reference to the points communicated to him and was surprised with reference to the points communicated to him and was surprised that the attributes of points were wrongly calculated without considering the points in accordance with Directorate's letter dated 14.12.2010. The applicant contends that he was eligible for 59 points and was awarded only 41 points in violation of the attributes stated in Directorate's letter dated 14.12.2010.

6. The applicant further contends that, his case is to be considered as per the rules prevailing as on the date of death of his father ie 30.04.2010 but the Respondents have applied the scheme introduced with effect from 14.12.2010 which is prospective only and cannot have retrospective effect. In support of his contentions, the applicant relies on decision of the Hon'ble High Court dated 24.10.2014 in WP No.31470/2014 and prays for reconsideration of his case as per the compassionate appointment scheme in vogue at time of death of his father.

7. As the Respondents have issued notification dated 8.12.2014 for filling up the post of GDSM/MD, Kommalapudi BO, in which the applicant is working, he has filed OA No.39/2015 and the same was disposed of vide order dated 04.03.2016, directing the Respondents "to place the matter before the CRC and reconsider the case of the applicant for compassionate appointment strictly in accordance with the extant guidelines. Accordingly the OA was disposed of on the above lines. No order as to costs." Accordingly the respondents have passed impugned order dated 17.8.2016 rejecting the applicant's case. Hence this application.

8. The Respondents have filed reply statement stating that, the deceased employee left behind him wife, unmarried son and the two daughters are married. The Respondents also state that the family of the deceased has Rs.1,25,351.00 (Rupees one lakh twenty five thousand three hundred and fifty one only) as terminal benefits. The Respondents submit that only two family members ie the applicant and his mother are

dependent on the deceased GDS and all the family members have agreed to provide compassionate appointment to the applicant herein. The Respondents further states that a new merit points based selection procedure was introduced vide 1st Respondent's letter dated 14.12.2010 which is applicable to all compassionate appointment cases to be considered on or after 01.01.2011. Later, the Postal Directorate, New Delhi, vide letters dated 1.8.2011, 9.3.2012, 13.4.2012 and 9.10.2013 issued some partial modifications / clarifications to the existing provisions of the newly introduced merit points scheme. According to the said scheme, the merits of the cases can be conveniently indicated by allocating points to the applicants based on various attributes on a 100 point scale to achieve the objective of the scheme and to ensure complete transparency. All requests for compassionate engagement would be considered by the Circle Relaxation Committee on application of the relative merit points prescribed in DOP letter dated 14.12.2010 in hard and deserving cases only subject to the availability of the vacancy for the purpose and fulfilment of the terms and conditions of the Gramin Dak Sevak Post. The term "hard and deserving cases" would mean cases over and above 50 merit points.

9. The Respondents further state that, as the compassionate appointment case / claim of the applicant was not considered by the Competent Authority ie Circle Relaxation Committee by that time / before 1.1.2011, the compassionate appointment case / proposal of the applicant was again processed in accordance with the new merit points scheme and a revised proposal was submitted to the 3rd Respondent vide 4th Respondent's

letter dated 31.10.2011. The CRC constituted for the purpose has met at the office of the 2nd Respondent on 10.05.2012 and considered the applicant's case along with other cases as per the scheme and guidelines vide 1st Respondent's letters dated 14.12.2010, 1.8.2011, 9.3.2012, 13.4.2012 and 9.10.2013 and found that the applicant has secured only 41 points as against 51 prescribed by DOP and as such the CRC has not recommended the case for appointment under compassionate grounds as the case did not receive the required merit points ie over and above 50 points prescribed by the Directorate.

10. Aggrieved on the decision of CRC, the applicant filed OA No.1447/2012 and status-quo order in respect of continuation of the applicant as Substitute GDSMC as on 20.12.2012 was granted. Accordingly the applicant continued as Substitute GDSMC and OA No.1447/2012 was disposed of with directions to the 4th Respondent to reconsider the applicant's case as per scheme and instructions on the subject and to pass a reasoned order, and further directed to continue the applicant in the same post as GDSMC, Kommalapudi till such time. Accordingly the applicant's claim for engagement under compassionate grounds was reconsidered by the CRC and found that he is not eligible for engagement as he got only 41 points against the minimum 51 points prescribed by DOP, New Delhi. Thereafter the paid substitute arrangement of the applicant in GDS post / cadre was terminated consequent on deliver of the speaking order and a notification to fill up the vacant post of GDSMC, Kommalapudi BO was issued on 8.12.2014.

11. The Respondents further states that when the matter is under adjudication before this Tribunal, the Department has revisited the matter on revision of merit points in the Scheme for engagement of a dependent of deceased GDS on compassionate grounds and revised the merit points for various attributes vide DOP letter dated 17.12.2015. In the said order, the threshold for adjudging hard and deserving cases is revised as 36 merit points in place of existing 51 points. Further, a corrigendum was issued vide DOP letter dated 10.6.2016 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".

12. Thereafter, based upon the directions in OA No.39/2015, the Respondents have placed matter once again before the CRC on 28.7.16 and 29.7.2016 for reconsideration, in accordance with DOP orders dated 17.12.2015 and 10.06.2016 and found that the applicant's case / claim was already settled before 17.12.2015 and that the revised merit points as put forth in the Directorate's letter dated 17.12.2015 is not applicable in view of the Directorate's order dated 10.06.2016.

13. When the matter was taken up for consideration, the learned counsel for the applicants produced a copy of the Govt. Of India, Ministry of Communications & IST, Department of Posts letter No.17-17/2010-GDS, dated 17.12.2015, notifying the revision of the existing merit points for

assessing indigence of the family of the deceased GDS. It was brought to the notice of this Tribunal that the threshold for hard and deserving cases has also been revised to 36 points in place of existing 51 points. The learned counsel for the Applicant submitted that the applicant would be eligible for compassionate appointment as per the revised guidelines as he has secured 41 points as against the threshold of 36 points and prayed for a direction to the respondents to reconsider the case of the applicant.

14. I have perused the revised guidelines notified by the Department of Posts dated 17th December, 2015. Paras 3 and 5 of the said guidelines state as follows :

“3. Threshold for “hard and deserving cases” would be 36 Points in place of existing 51 Points.

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5. The revised provisions as per above will be given effect to taking the date of death of the GDS as cutoff date where there is eligible member in the family on that date and date of consideration by the CRC in other cases.”

15. In view of the revised guidelines and the submissions made by the learned counsel for the applicant, the impugned order dated 17.08.2016 is set aside. The respondents are directed to place the matter before the Circle Relaxation Committee and reconsider the case of the applicant for compassionate appointment strictly in accordance with the extant guidelines.

16. Four weeks from the date of receipt of a copy of this order is granted

for compliance. Accordingly the OA is disposed of on the above lines. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 9th October, 2018.

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