

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

Original Application No. 904/2016

Date of C.A.V. : 18.07.2018

Date of Order : 07.08.2018

Between :

B.P.Satish Kumar, S/o Late B.P.Mallikarjun,
Hindu, Aged about 37 years, working as
GDSBPM, Korrakodu on temporary basis,
R/o D.No.1/136, Korrakodu Post – 515 711,
Kuderu Mandal, Ananthapur District.

... Applicant

And

1. Union of India, Rep. by
The Director General,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi – 110 001.

2. The Chief Postmaster General,
A.P.Circle, Abids, Hyderabad – 500 001.

3. The Postmaster General,
Kurnool Region, Kurnool – 518 002.

4. The Superintendent of Post Offices,
Ananthapur Division, Ananthapur – 515 001.

... Respondents

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| Counsel for the Applicant | ... | Mr.T.P.Acharya, Advocate |
| Counsel for the Respondents | ... | Mrs.K.Rajitha, Sr.CGSC |

CORAM:

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| <i>Hon'ble Mr.Justice R.Kantha Rao</i> | <i>...</i> | <i>Member (Judl.)</i> |
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ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

This OA is filed to declare the letter dated 14.01.2015 issued by the Directorate I No.17-39/3/2012-GDS, letter dated 10.06.2016 issued in Lr.No.17-17/2010-GDS and the consequential order dated 20/21.07.2016 issued by the Postmaster General, Kurnool Region, Kurnool holding that the applicant is found to be not eligible for compassionate appointment as arbitrary, illegal, contrary to clarification on the subject and also contrary to the findings of this Tribunal in OA.821/2014 and consequently direct the respondents to appoint the applicant on compassionate grounds as GDS Branch Post Master, Korrakodu Branch Office A/w Kuderu Sub Office.

2. The brief facts relevant for considering the issues involved in the present OA may be stated as follows :

The father of the applicant Sri B.P.Mallikarjuna worked as Grameena Dak Sevak Branch Post Master, Korrakodu Branch Post Office, Kuderu Sub Office for a period of 30 years and died on 20.05.2012 while in service. According to the applicant the post of GDS is not a pensionable job and the family of the deceased was not granted any pensionary benefits. The family of the applicant does not have own house, no other source of income and the deceased employee contracted debts to the tune of three lakhs to meet the family needs. The sister of the applicant by name Bhargavi is a divorcee with two children and was depending on the deceased. She also died on 06.02.2012.

3. The applicant was engaged temporarily as EDBPM, Korrakodu and has been working in the said post till date by virtue of the orders passed by the Tribunal in the Original Application filed by him. Government of India introduced a scheme on 14.12.2010 providing compassionate appointment to the children of the GDS employees. The applicant applied for the said post, but the same was rejected by proceedings dated 08.08.2013 of the 4th respondent stating that the Circle Relaxation Committee met on 23.07.2013 considered the case of the applicant for compassionate appointment and rejected the same on the ground that the relative merit points awarded were less than 51, which were the minimum points. The applicant assailed the said proceedings by filing OA.1215/2013 before this Tribunal. The OA was disposed of on 16.04.2014 duly setting aside the rejection order dated 08.08.2013 with a direction to the respondents 2 and 4 to reconsider the claim of the applicant for compassionate appointment under the scheme and also basing on the instructions on the subject by a reasoned order within two months.

4. The 2nd respondent however issued an order dated 11.06.2014 rejecting the claim of the applicant on the ground that he is not entitled for compassionate appointment since he is a married son. Against the rejection order dated 11.06.2014, the applicant filed OA.821/2014 before this Tribunal. As there was a threat of discontinuation by issuing notification dated 07.07.2014 to fill up the post in which the applicant was discharging duties, the applicant

obtained an interim direction from the Tribunal 22.07.2014 suspending the notification and directing the respondents to continue the applicant till the disposal of the OA. The OA was disposed of on 30.05.2016 and the Tribunal made the interim order as absolute and therefore according to the applicant the interim order was in force till the passing of the order dated 20/21.07.2016 which is impugned in the present OA. This Tribunal by its order dated 30.05.2016 passed in OA.821/2014 recorded the following findings :

“If a married daughter can act as a bread winner, there is no logic in depriving a married son to act as a bread winner when such son was dependent upon his father before his death on 20.05.2012. As such there is no rationale in depriving a married son to act as a bread winner for the family of the deceased.”

The Tribunal also observed that _

“When the married son is able to prove that he was a dependent on the deceased GDS, the merit points are to be recalculated, in which case, there is likely hood of increase of merit points.”

5. Thus the Tribunal set aside the impugned order dated 11.06.2014 remitted the matter back to the respondents directing them to reconsider the claim of the applicant for engagement as GDS MC/MD on compassionate grounds in accordance with the circular / instructions issued by the Postal Directorate within eight weeks from the date of receipt of a copy of the order.

6. It is submitted by the applicant that after disposal of OA.821/2014 filed by him, the 4th respondent issued a letter dated 20.06.2016 for engagement as GDS MC/MD on compassionate grounds. For which the applicant replied that he had already submitted the documents to the department. The 3rd respondent

once again by order dated 20/21.07.2016 rejected the claim of the applicant for compassionate appointment on the very same ground that he is a married son and the said order is assailed in the present OA as a third round of litigation.

7. According to the applicant the respondents did not even place the matter before the CRC and rejected the case on the untenable ground that the case of the applicant cannot be reopened in view of the subsequent letter of the directorate.

8. In their reply statement the respondents contended inter alia that the wife of the deceased employee received death benefits to a tune of Rs. 1,65,5500/-. Initially the claim of the applicant for compassionate appointment was rejected as the relative merit points awarded to him were less than 51, which were the minimum points at the time of consideration. It is further submitted that in compliance of the order passed by the Tribunal dated 16.04.2014, the case of the applicant was reconsidered and he was found to be not eligible for appointment on compassionate grounds as he got 33 points against the minimum of 51 points.

9. According to the respondents as per the latest instructions of the Department of Posts contained in letter No.17-39/3/2012-GDS dated 14.01.2015 considering the married son as dependent family member for the purpose of compassionate engagement to GDS post is applicable from the date of issue of

Directorate letter dated 14.09.2015. The revised provisions will be given effect from the date of issue of these instructions in respect of those cases considered in CRC held after 17.07.2015. The cases already settled before need not strictly be reopened. Contending as above, the respondents sought to dismiss the OA.

10. Heard Mr.T.P.Acharya, learned counsel for the applicant and Mrs.K.Rajitha, learned Senior Central Government Standing Counsel for the respondents.

11. In the instant case admittedly by virtue of the order passed by this Tribunal in the aforementioned OAs, the applicant is continued as GDSBPM, Korrakodu Branch Office till date. A notification to fill up the post in which the applicant has been officiating has been struck down by this Tribunal. The Tribunal in OA.821/2014 has held categorically that the married son is entitled for compassionate appointment if he is dependent on the deceased and directed the respondents to reconsider the case of the applicant for compassionate appointment notwithstanding the fact that he is a married son of the deceased employee. The letter of the Directorate dated 10.06.2016 which is to the effect that the revised provisions are given effect from the date of the issuance of the instructions in respect of those cases considered in CRC's held after 17.12.2015 seems to have been given to overcome the findings and direction issued by this Tribunal in OA.821/2014 by its order dated 30.05.2016 when the earlier instructions which disqualified a married son for claiming a post on

compassionate grounds are withdrawn and new instructions were issued making a married son eligible for compassionate appointment, the letter dated 10.06.2016 issued by the respondents to the effect that the cases already settled before 17.12.2015 need not strictly be reopened is unsustainable in law. The said letter which is contrary to the findings given by the Tribunal in the earlier OA is liable to be set aside in the present OA. By virtue of the order passed by the Tribunal in the said OA the only exercise the respondents have to undertake is to consider the case of the applicant for compassionate appointment as GDSBPM of Korrakodu Branch Office even though he is a married son. The respondents have not done any such exercise, but rejected the claim of the applicant under the guise of the letter dated 10.06.2016 issued by the 4th respondent. Therefore there is no compliance of the order dated 30.05.2016 passed by this Tribunal in OA.821/2014. The applicant has been consistently pursuing the claim for compassionate appointment by filing three OAs. There is an order passed by this Tribunal in his favour to continue him in the temporary post of GDSBPM, Korrakodu Branch Office. Thus the claim of the applicant does not suffer from any delay and latches. The OA filed by him therefore deserves to be allowed.

12. Consequently the letter dated 14.01.2015 issued by the Directorate in No.17-39/3/2012-GDS and letter dated 10.06.2016 issued in letter No.17-17/2010-GDS and the consequential memo dated 20/21.07.2016 issued by the Postmaster General, Kurnool Region, Kurnool are set aside. The respondents are directed to reconsider the case of the applicant for appointment as GDS BPM,

Korrakodu Branch Office on compassionate grounds and continue him in the said post till such reconsideration.

13. Accordingly the OA is allowed. There shall be no order as to costs.

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

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