

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. MA 350/25/2018
OA 350/658/2016
MA 350/26/2018

Date of order : 7.2.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member

NAMITA GHOSH

W/o Late Damodar Ghosh

PRADIP KUMAR GHOSH

S/o Late Damodar Ghosh

R/o Madhaipur,

PO - Natundanga,

Dist. - Burdwan,

Pin - 713381.

APPLICANT

VERSUS

1. Union of India, through
Secretary,
Ministry of Communications &
Information Technology,
Department of Post,
Dak Bhawan,
Sansad Marg,
New Delhi - 110116.
2. The Chief Post Master General,
Yogayog Bhawan,
Chittaranjan Avenue,
South Bengal Region,
Kolkata - 700012.
3. The Sr. Superintendent of Post Office
Department of Post,
Asansol Division,
Asansol - 713301.
4. Assistant Director of Postal Department,
Yogayog Bhawan,
Chittaranjan Avenue,
South Bengal Region,
Kolkata - 700012.

RESPONDENTS.

For the applicant : Mr. S. Chatterjee, counsel

For the respondents: Mr. M. K. Ghara, counsel

O R D E R (ORAL)Per Ms. Manjula Das, Judicial Member

By making this OA the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) The cause of action and the redressal being the same the applicants pray for leave to file one original application in accordance with provisions of Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987;
- b) An order quashing and/or setting aside the order dated 8.8.2014 which is Annexure A/3 to this application and also directed the respondents to consider the candidature of the applicant No.2 for employment on compassionate ground;
- c) Any further order or orders as Your Lordships may deem fit and proper.

MA 26/2018 has been filed for early hearing of the OA and MA 25/2018 has been filed for filing joint petition under Rule 4(5)(a) of CAT (Procedure) Rules, 1987.

2. Mr.S.Chatterjee, Id. Counsel appeared on behalf of the applicant and Mr.M.K.Ghara, Id. Counsel appeared for the respondents.

3. The brief fact of the case as narrated by the applicant is that the applicant N.1 is the widow and the applicant No.2 is the son of Late Damodar Ghosh, Ex Mail Runner, Bahula Sub Post Office, who died in harness on 17.10.2006. The applicant No.1 submitted a representation before the respondent authority for appointment of applicant No.2 on compassionate ground. Since the respondents did not give any reply to the same, the applicants approached this Tribunal in OA 902/2012. This Tribunal disposed of the OA 902/2012 with a direction upon the applicant to submit his application in proper format within a period of 15 days and the respondents were directed to consider the said application before the next CRC and pass appropriate order if the applicant is found suitable. In compliance to such order of the Tribunal the respondents passed an order dated 8.8.2014 whereby they have rejected the claim of the applicant No.2 for appointment on compassionate ground. Hence the applicants have approached this Tribunal in the present OA.



4. On the other hand the respondents by filing their reply have stated that the case of the applicant No.2 was not considered as he was married. As per DOPT OM No.14014/02/2012-Estt(D) dated 25.2.2015 'married son' can be considered for compassionate appointment provided he is otherwise eligible for consideration. But in the instant case the applicants are living in their own house and terminal benefits, family pension, etc. as due and admissible to the family have been paid after the death of the deceased employee and hence the condition of the applicants is not indigent. As per DOPT OM dated 30.5.2013, since a married son is not considered dependent on a government servant, the applicant No.2 was not considered for compassionate appointment. As such the decision of the department was communicated to the applicants vide order dated 8.8.2014 and hence the question of setting aside the order dated 8.8.2014 does not arise. The respondents have thus prayed for dismissal of the present OA.

5. In the rejoinder the applicant has stated that as per DOPT OM No. 14014/02/2012-Estt(D) dated 5.9.2016 a married son is eligible for compassionate appointment and it is stated as hereunder :

F.No.14014/02/2012-Estt.(D)

Government of India

Ministry of Personnel, Public Grievances and Pensions

Department of Personnel & Training

North Block, New Delhi

Dated the 05th September, 2016

OFFICE MEMORANDUM

Subject:- Consolidated Instructions on compassionate appointment — Review of FAQs dated 30.05.2013/25.02.2015 with regard to married son.

The undersigned is directed to invite attention to this Department's O.M. No. 14014/6/1994-Estt.(D) dated 09th October, 1998 and OM of even number dated 16th January, 2013, vide which Consolidated Instructions on compassionate appointment were issued. Subsequently, vide FAQ No. 13 dated 30.05.2013 it has been clarified that married sons are not considered as dependent family member and hence not eligible for consideration for compassionate appointment. The clarification with regard to married son as stipulated in FAQ No. 13 dated 30.05.2013 has been reviewed vide FAQ No 60 of even number dated 25.02.2015 as under:-

Sl.No.	Question	Answer
60	Whether 'married son' can be considered for compassionate appointment?	Yes, if he otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria laid down in this Department's OM dated 16 th January, 2013. This would be effective from the date of issue of this FAQ viz. 25 th February, 2015 and the cases of compassionate appointment already settled w.r.t. the FAQs dated 30 th May, 2013, may not be reopened. Sr. No. 13 of the FAQs dated 30 th May, 2013 may be deemed to have been modified to this extent.

2. Pursuant to various Court Orders, the clarification/FAQ No. 13 dated 30.05.2013 and FAQ No. 60 dated 25.02.2015 has been further reviewed in consultation with the Department of Legal Affairs. It has been decided that married son can be considered for compassionate appointment if he otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria laid down in this Department's O.M. dated 16th January, 2013.

3. FAQ No. 13 dated 30.05.2013 and FAQ No. 60 dated 25.02.2015 stands withdrawn from the date of their issue.

4. The cases of compassionate appointment rejected solely on the grounds of marital status in terms of FAQ No. 13 dated 30.05.2013 during the intervening period i.e. w.e.f. 30.05.2013 to 25.02.2015 in respect of married son may be reopened/reconsidered against vacancies occurring after issue of this OM.

5. Hindi version will follow.

(G. Jayanthi)
Director (E-I)
Phone No. 23092479."

In this context the Id. Counsel for the applicant has submitted that Hon'ble High Court of Calcutta has granted and allowed benefit to similarly situated person in WPCT 20/2017 (Pradip Kumar Maity -vs- Union of India & Ors.) wherein vide order dated 29.6.2017 Hon'ble High Court has held as hereunder :

"It is made clear that the fact that the petitioner has married would not be considered as a bar for grant of compassionate appointment."

6. Heard the Id. Counsels for both parties and perused the pleadings and materials placed before me

7. In view of the foregoing discussions, I hereby dispose of the OA with a direction to the respondent authorities to consider the case of the applicant as

per the scheme for compassionate appointment in the light of the decision of the Hon'ble High Court at Calcutta in WPCT No. 20/2017 within a period of three months from the date of receipt of the copy of this order. The decision so arrived shall be communicated to the applicant forthwith.

8. The OA therefore stands disposed of. Both the MAs consequently stand disposed of. No order as to costs.

(MANJULA DAS)
JUDICIAL MEMBER

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