

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Original Application No. 332/00416/2015

**Order reserved on : 23.04.2018
Pronounced on : 11.05.2018**

Hon'ble Mr. Justice V.C. Gupta, Member (Judicial)

Hariom Tripathi aged about 30 years son of Late Sudhakar Tripathi resident of Village and Post – Mathura Rasoolpur, Tehsil – Jalalpur, District – Ambedkar Nagar.

.....Applicant

By Advocate : Sri S.P. Pandey.

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Posts & Telegraphs, Government of India, New Delhi.
2. Chief Post Master General U.P. Circle, Lucknow.
3. Director Postal Services (Headquarters), Office of Chief Post Master General U.P. Circle, Lucknow.
4. Senior Superintendent of Post Offices, Faizabad Division, Faizabad.
5. Sub Divisional Inspector (South) Akabarpur, Ambedkar Nagar.

.....Respondents

By Advocate : Sri Rajesh Katiyar.

ORDER

Delivered by: Justice V.C. Gupta, Judicial Member:

By means of this Original Application, the applicant is claiming the following relief(s):

“A. The Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 07.05.2014 passed/issued by the respondent No. 2 as contained in Annexure No. 1 to this original application.

- B. The Hon'ble Tribunal may graciously be pleased to direct to the respondents to give compassionate appointment to the applicant according to his qualification within the stipulated time as this Hon'ble Tribunal deem just and proper.
- C. Any such other order or direction which this Hon'ble Tribunal may deem just and proper in the circumstances of the case.
- D. Allow this original application with cost."

2. The brief facts giving rise to this original application are that father of the applicant Late Sudhakar Tripathi died in harness on 18.02.2011 while working on the post of Branch Post Master, Branch Post Office- Mathura Rasoolpur, District- Ambedkar Nagar. He left behind his wife Smt Satyawati Devi and three sons Hariom Tripathi, the applicant, Santosh Kumar Tripathi and Uma Shiv Tripathi. The applicant's date of birth is 15.07.1987 and his educational qualification is Intermediate. The yearly income of the applicant is 36000/-which has been certified by competent authority. The other family members of the deceased employee are given consent in favour of the applicant and applicant submitted an application on prescribed format for grant of compassionate appointment. During pendency of his application, the work of computer operator has been taken from the applicant in Branch Post Office, Dulhoopur from 22.09.2012 to 24.01.2013 under the oral order of the respondent no. 3/Director, Postal Services but he was not paid any salary for the services rendered by him. The claim of the applicant for compassionate appointment was declined vide an order dated 03.12.2012. Copy of which has been annexed as Annexure No. A-9. It was contended that post of Branch Post Master, Branch Post Office- Mathura Rasoolpur (Dulhoopur) District- Ambedkar Nagar is still vacant and claim of the applicant was wrongly rejected and respondent no. 4 issued the advertisement dated 01.02.2013 inviting the applications from open market for the said post which was kept reserved for reserved category candidate. Aggrieved by order the applicant filed an Original Application No. 102 of 2013 challenging the order dated 03.12.2012 passed by respondent no. 4 and also advertisement dated 01.02.2013. The aforesaid OA filed by the applicant was partly allowed after quashing the order dated 03.12.2012 vide its order dated 20.12.2013 with direction to the respondents to place the matter of the applicant before the next meeting of CRC to be convened along with other suitable candidates.

3. In pursuance of the order passed by this Tribunal, the case of the applicant was considered in the next CRC meeting

but the case of the applicant was rejected vide an order dated 07.05.2014. Copy of which has been annexed as Annexure No. A-1 to this OA which is reproduced herein below for ready reference:

“DEPARTMENT OF POSTS, INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL, U.P. CIRCLE, LUCKNOW-226001.

Memo No. Rectt/M-8/45/2012/10 Dated at Lucknow, the 7th May, 2014

Shri Sudhakar Tripathi, GDS, BPM, Mathura Rasoolpur, Ambedkarnagar, under Faizabad Division died on 18-02-2011. His due date of discharge from service on attaining the age of superannuation was 2-11-2016. He left his wife and three major sons out of one is married in his family. The family of deceased has own house to live and sufficient agricultural land for livelihood. Each family member has individually submitted income certificate of Rs. 3000/-Per Month. Besides terminal benefits amounting of Rs. 1,22,800/- were paid to the family of deceased official.

2. The case of applicant was considered by the CRC at its meeting held on 21st Sept., 2012 and CRC did not recommended the engagement on compassionate grounds.

3. Being aggrieved, applicant Shri Hari Om Tripathi filed OA No. 102 of 2013 before Hon'ble Central Admn. Tribunal, Lucknow Bench against the decision of CRC of non-approval of his appointment on compassionate grounds. The Hon'ble Central Admn. Tribunal, Lucknow Bench passed order dated 20-12-2013 in OA No. 102 of 2013 Hari Om Tripathi Vs. Union of India and others with direction to the respondents to place the matter of the applicant before next meeting of CRC to be convened alongwith other suitable candidates. This exercise may be completed within a period of six months from the date of receipt of certified copy of this order. No costs.

4. In compliance of order dated 20-12-2013 passed by Hon'ble Central Admn. Tribunal, Lucknow Bench in OA No. 102 of 2013, the case of applicant has been reconsidered by CRC at its meeting held on 24th & 25th April, 2014 and the family of deceased has not been found indigent as per prescribed parameters of indigency for engagement on compassionate grounds.

5. Accordingly, the CRC, has not recommended the engagement of Shri Hari Om Tripathi.

Sd/-
(G.P. Bajpai)
Asstt. Director (Rectt)”

4. Earlier to filing this original application the order dated 07.05.2014 was assailed in writ petition no. 6079/SS/2014 but the same was dismissed on 17.10.2014 on the ground of availability of alternative remedy to approach Central Administrative Tribunal. Therefore, this Original Application has been filed.

5. Counter reply has been filed and objection against application for condonation of delay has also been filed. In the counter reply the respondents pleaded that after death of Sudhakar Tripathi, who was due to retire on 02.11.16 on attaining the age of 65 years. He left behind his wife and three sons including applicant and amount of Rs. 122800/- was paid as terminal benefit to widow of ex-GDS cadre employee Sudhakar Tripathi. The family of the deceased employee having own house to reside and also possess agriculture land. The applicant is intermediate passed. The case of the applicant for compassionate appointment was considered by CRC in its meeting held on 21.09.2012 but the case of the applicant was not recommended by the CRC on the basis of inter-se-merit of all such cases on the basis of instructions issued by respondents. It was further contended that as per Direction of the Postal Directorate, the merit points were calculated in the prescribed manner. The applicant secured only 29 merit points. As per direction of Postal Directorate's letter dated 09.03.2012 atleast 50 merit points are required to consider the case of any candidate for appointment on compassionate ground. If the merit points are less than 50 it cannot be said to be a case of indigent family so far as for consideration of compassionate appointment.

6. It was further contended that an advertisement was published to fill up the vacancy on 01.02.2013 inviting the application from open market. The applicant filed an OA No. 102/2013 against the order passed on 03.12.2012 by SSPOs Faizabad informing the applicant that his case was already rejected by CRC in its meeting held on 21.09.2012 which was disposed of by issuing direction for reconsideration. Consequently, the case of the applicant was reconsidered in the light of order passed in O.A. No. 102 of 2013 in the next CRC meeting held on 24th and 25th April, 2014 and family of the deceased was not found to be indigent as per prescribed parameters of indigency for engagement on compassionate ground and accordingly informed vide order dated 07.05.2014.

7. After hearing to the parties, this Tribunal vide order dated 13.10.2015 dismissed the original application. The applicant filed writ petition No. 21427 (SB) of 2016-Hariom Tripathi Vs. CAT and others before Lucknow Bench of Allahabad High Court. The Hon'ble High Court vides judgment and order dated 07.09.2017 set aside the judgment passed on 13.10.2015

by this Tribunal and remanded back the matter to this Tribunal to decide the O.A. afresh in accordance with law. It was further contended that the case has been considered according to guidelines issued by Postal Directorate as such there is no infirmity in the order.

8. Rejoinder has been filed. Reiterating the stand taken by applicant in the original application. It was again reiterated that the marks were not rightly allocated. It was further contended that by subsequent policy dated 30.5.2017 the Government of India, Ministry of communication, New Delhi review the scheme for engagement of a dependent of GDS on compassionate grounds and point system has been done away with an observation that the case already closed will not be opened. The National Association of Postal Employees Group 'C', New Delhi has sent a memorandum against the aforesaid decision but no action has yet been taken. For ready reference the changed policy published by Press Information Bureau, Ministry of Communications & Information Technology on 27.04.2017 is reproduced for ready reference:

"Press Information Bureau
Government of India
Ministry of Communications
27-April-2017 11:50 IST"

Government revamps jobs on compassionate ground for Gramin Dak Sevaks

Dependents of GDS to get benefit within 3 months

Department of Posts has revamped the existing compassionate engagement scheme offered to the dependent family members of Gramin Dak Sevak. A GDS who dies in harness, the dependents of such GDS will benefit from a liberalized and time bound procedure for engagement on compassionate grounds. Henceforth, any death of a Gramin Dak Sevak while on engagement would be compensated by a compassionate engagement to a dependent family member irrespective of the circumstances or indigence. Upper age limit of the applicant could also be relaxed wherever found to be necessary. Thus the new scheme of compassionate engagement will provide greater relief to the members of the family of the deceased GDS who belong to weaker and poorer sections of the society and are thrown into penury and hardship.

The ambit of dependent family member has also been expanded to include:

- Married son living with parents and dependent for livelihood on the GDS on the date of death of the GDS
- Divorced daughter wholly dependent on the GDS at the time of death of the GDS
- Daughter in law of the deceased GDS who is wholly dependent on the GDS, if the only son of the GDS is pre deceased.

This expansion of definition of family members aims to bring greater relief to women in our society who are subjected to difficult circumstances in the unfortunate event of demise of their spouse/parent.

The present system of relative merit points to ascertain the degree of indigence has been dispensed with. Keeping in view the unique and distinct service conditions, socio economic aspects and to relieve the family from financial destitution, the time consuming process of consideration by Circle Relaxation Committee has been done away with. Henceforth, a request received for compassionate engagement would be considered and decided within three months from the date of receipt of the application.

Further to ensure least displacement, it has been decided that to the extent possible, compassionate engagement would be offered to the dependent of the deceased GDS, to a GDS post near the place where the family of the deceased normally resides.”

9. After hearing the parties the application for condonation of delay was allowed vide order dated 06.04.2018 and matter was finally listed for hearing on merit.

10. During course of hearing on merit the learned counsel for the applicant argued that at the time of death of the father of the applicant the policy of the department dated 14.12.2010 was applicable which provides marks of educational qualification of the candidate. Those marks have not allocated to the applicant. Without including the marks for educational qualification the merit allocated to the applicant would be incorrect. It was further contended that the case was decided on the basis of new scheme of 09.03.2012 which was made applicable after the death of the father of the applicant.

11. For considering the case properly, the record of the case was summoned after hearing of arguments at some length. The respondents placed the record before this Tribunal after production of record the matter was again heard.

12. The perusal of record reveals that the case of the applicant was considered in the next CRC as per direction issued by CAT, Lucknow Bench on 20.12.2013 in OA No. 102 of 2013. Hence, it would be necessary to consider first the direction issued in O.A. No. 102 of 2013. The copy of the order passed in O.A. No. 102 of 2013 is placed as Annexure No. A-11. The relevant portion of the judgment contains to para(s) 5 to 8 are extracted herein below for ready reference:

“5. Coming to the merits of the case, the respondents have contended that the applicant cannot seek appointment on the post of GDS, Mathura Rasoolpur (Dulhoopur), District Ambedkar Nagar, which is advertised by the respondents vide memo dated 1.2.2013.

The said post is reserved for Scheduled Tribes candidates and names of suitable persons have been sought from District Employment Officer. The applicant belongs to general category and, therefore, he cannot seek to claim his appointment to the particular post.

6. *The respondents have stated that the case of the applicant was considered by the CRC, but total merit points obtained by the applicant was 29. However, he conceded during the course of hearing that certain errors may have crept in the marking in awarding the points on the basis of educational qualification and certain parameter as disclosed by the applicant.*

7. *I have heard the learned counsel for the parties and seen the pleadings of the case. On examination of the relief prayed, it shows that the applicant is merely seeking compassionate appointment and not payment of wages as Computer Operator by means of this O.A.*

8. *In view of the admission of learned counsel for the respondents at the Bar, the O.A. is partly allowed. The impugned order dated 3.12.2012 is quashed. The respondents are directed to place the matter of the applicant before the next meeting of CRC to be convened alongwith other suitable candidates. This exercise may be completed within a period of six months from the date of receipt of a certified copy of this order. No costs.”*

13. The question of allocating marks for educational qualification was considered in para-6 of the judgment. The petition was disposed of on the basis of statement of the learned counsel for the respondents that certain errors may be crept in the awarding the points on the basis of educational qualification and certain parameter as disclosed by the applicant. After that specific direction was issued by Tribunal that the applicant's case shall be considered in the next CRC convened alongwith other suitable candidates.

14. From the perusal of record it is crystal clear that 29 merit points were allocated to the applicant as per scheme promulgated in 2012. The CRC report dated 31.01.2014 is also placed before this Tribunal. The copy of which is extracted herein below for ready reference:

“Department of Posts India
o/o Sr. Supdt. Of Post Offices Faizabad Division Faizabad – 224001

Memo No PFA/Mathura Rasoolpur/11-12 dated at Faizabad 31-01-2014

Whereas Sri Hari Om Tripathi S/o Late Sri Sudhakar Tripathi applied for compassionate engagement after death of his father against the post of GDSBPM,

Mathura Rasoolpur, Dulhupur, Ambedkarnagar.

2- And whereas after completion of all codal formalities, the case was duly considered by the Circle Relaxation Committee, Lucknow meeting dated 21.09.2012 and was not found fit for compassionate engagement as per departmental rules as there were only 29 merit points in the case.

3- And whereas Sri Hari Om Tripathi filed O.A. No. 102/2013 before Hon'ble CAT, Lucknow Bench, which was disposed on date 20.12.2013 with a direction "*to place the matter of the applicant before the next meeting of CRC to be convened alongwith other suitable candidates. This exercise may be completed within a period of six months from the date of receipt of a certified copy of this order. No costs.*"

4- And whereas as per direction of Circle office, Lucknow Bench letter no. Rectt/M-8/45/2012/10 dated 23.01.2014 Sri Hari Om Tripathi submitted his representation dated 29.01.2014 alongwith necessary documents.

5- And whereas, after considering all aspects of the representation alongwith the documents submitted by Sri Hari Om Tripathi following observations were made:

	Point raised in representation	Clarification
(a)	6 merit points should be granted in " <i>earning of family members per month</i> " column	As Sri Hari Om Tripathi has submitted the Income certificates for all four family members i.e. Smt Satyawati, Sri Santosh Tripathi, Sri Umashiv Tripathi & Sri Hariom Tripathi of Rs. 3000.00 per month each. Thus the total earning of the family of the deceased comes to Rs. 12000.00 per month. Hence, no merit point is admissible in the column.
(b)	20 points should be granted for education qualifications in column no 7	The system of allocation of points in r/o compassionate engagement of dependent of a GDS dying in harness, introduced vide Dte no 17-17/2010-GDS dated 14.12.2010 has been amended vide Dte no 17-17/2010-GDS dated 09.03.2012 and "column 7-Educational Qualification of applicant" was deleted.

6- Now therefore, in purview of the above observations made and having gone through the entire case and after careful consideration of representation dated 29.1.2014 of said Sri Hari Om Tripathi, it is clear that the merit points already allocated in the case are correct and need no rectification. The case is however forwarded to the office of The Chief P M G, U.P. Circle, Lucknow-226001, for further consideration of the case by CRC as per directions of Hon'ble CAT.

Sd/-

(R K Misra)

Sr. Supdt. of Post Offices
Faizabad Division Faizabad-224001."

15. The perusal of the aforesaid report reveals that no point for educational qualification has been allocated to the applicant.

16. The applicant has placed on record the copy of scheme dated 14.12.2010 where the allocation of the marks were under following head:

1. NO OF DEPENDENTS:

S. No.	Points	Proposed Slabs for GDS Dependents
1	10	3 & above
2	7	2
3	3	1

2. OUTSTANDING LIABILITIES FOR EDUCATION/MARRIAGE OF DEPENDANT CHILDREN:

S. No.	Points	Criteria
1	10	For education of minor children
2	15	For marriage of daughter

3- LEFT OVER SERVICE FOR DISCHARGE

S.No.	Points	Slabs for left over service in context to maximum age for discharge
1	10	Over 20 years
2	8	Over 15 & up to 20 years
3	6	Over 10 & up to 15 years
4	4	Over 5 & up to 10 years
5	2	0-5 years

4- OWN AGRICULTURAL LAND AND HOUSE

S. No.	No. of Points	Criteria
1	10	No house and land
2	5	Own house only or land
3	0	Own house and land

5- FAMILY EARNINGS OF MEMBERS OF FAMILY PER MONTH

S. No.	Points	Proposed slabs for family earning
1	10	No income
2	8	2500 or less p.m.
3	6	2501 to 3500 p.m.
4	4	3501 to 4500 p.m.
5	2	4501 to 5500 p.m.
6	0	5501 to above p.m.

6- DISCHARGE BENEFITS i.e. EX-GRATIA GRATUITY, SEVERANCE AMOUNT, SERVICE DISCHARGE BENEFITS UNDER NPS LITE AND GROUP INSURANCE BENEFITS RECEIVED BY FAMILY

S. No.	Points	Proposed slabs for benefits discharge
1	10	Rs. 25000
2	8	Rs. 25000 to 50000
3	6	Rs. 50001 to 75000
4	4	Rs. 75001 to 100000
5	0	Above 100000

7. EDUCATIONAL QUALIFICATION OF APPLICANT:

S. No.	Points	Proposed Slabs on education of applicant
1	25	Graduate
2	20	10+2
3	10	Below 10+2

17. So far as the scheme of 2012 is concerned the description of the same has been given in the counter affidavit. The correctness of which has not been denied. To consider the indigent condition of the family merit points are allocated under different heads. If the case of the applicant is considered in the light of direction issued on 09.03.2012 the allocation of 29 marks would be in accordance with the scheme. But, if the 2010 scheme is applied the applicant would be entitled to get only 10 merit points for dependents of the deceased, 4 merit points for left over service and 20 merit points for education and as such total allocated marks would be 34.

18. Both directions cannot be joined together to grant the relief to the applicant, the applicant either to get the benefit of 2010 scheme or scheme of 2012. Therefore, no case of interference in the impugned order is made out.

19. Learned counsel for the respondents further argued that minimum qualification for the post is 10+2 therefore, allocation of marks for educational qualification has been deleted in the revised scheme and under different head allocation of the marks were revised. Therefore, in allocation of marks the other candidates could not be discriminated. It was further pointed out that while passing the order in OA No. 102 of 2013 the Tribunal made it crystal clear in Para -8 by issuing directions to consider the case of applicant in the next CRC meeting alongwith other suitable candidates seeking compassionate

appointment. Therefore, these cases cannot be considered on two different criteria for consideration of their cases.

20. It is admitted case that all four dependent of the applicant are earning member and their certificates were placed on record by applicant himself. As such total income of the family comes to Rs. 12000/- p.m. This is based on certificate provided by the applicant himself and as such he cannot be allowed to deny that family income is not of Rs. 12000/-p.m. The fact that family of the applicant is also in possession of own house and agriculture land, therefore, no merit points were allocated for not possessing own house and agriculture land by the family of deceased employee.

21. So far as the plea taken in the rejoinder that in new scheme of 2017 the allocation of mark system has been abolished no benefit of the same can be given to applicant and his case cannot be reopened. The applicant on the basis of own argument cannot switch over to the policy which suits to him. The policy of 2017 have clear cut direction that closed cases cannot be reopen which has been rejected on the basis of allocation of marks in the light of earlier schemes. Therefore, the applicant cannot get the benefit of new scheme of 2017

22. Consequently, the Original Application has no merit and is accordingly dismissed. No interference is warranted in the impugned order. However, there shall be no order as to costs.

23. The original record be returned to the respondents counsel.

**(Justice V. C. Gupta)
Member (J)**

JNS