

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION NO.339 of 2015

Date Of Decision:- 27th July, 2018.

CORAM:HON'BLE SHRI. R. VIJAYKUMAR, MEMBER (A) .

Hemant s/o Macchindra Patil (Borse),
Age 31 years, Occ. Education Unemployed
And agriculturist, R/o At Post Lasur,
Tq.Chopda, Dist. Jalgaon- 425 107.

...Applicant.

(By Advocate Shri. S D Joshi)

Versus

1. Union of India,

Through: The Secretary,
Ministry of Communication & Information
Technology, Department of Posts(G.D.S. Section),
Dak Bhavan, Sansad Marg,
New Delhi- 110001.

2. The Office of Chief Post Master General,

Department of Posts,
Maharashtra Circle,
Mumbai- 400 001.

3.The Superintendent of Post Office,

Bhusawal Division, Bhusawal- 425 201.

4. The Inspector of Posts,

Department of Posts, Yawal Sub-Division,
Yawal-425 301.

...Respondents.

(By Advocate Shri. R.R. Shetty)

Reserved On : 23.07.2018.

Pronounced on: 27.07.2018.

ORDER**PER:- R. VIJAYKUMAR, MEMBER (A) .**

This application was filed on 04.02.2015 under Section 19 of the Administrative Tribunals Act, 1985 seeking appointment on compassionate ground as GDS consequent on the demise of the applicant's father who was an employee with the respondents and who died on 01.12.2011, leaving behind his wife and two sons who were aged 23 and 27 years at that time. At the time of the employee's demise, the family including sons were living in a rented house and they had only an open plot obtained under the Indira Awas Yojana (IAY), costing Rs. 80,000/- and they did not own any agricultural land. The family was stated to be engaged in agricultural labour for their livelihood. Along with no-objection letters from his mother and younger son, the elder son, the applicant, filed a request for compassionate appointment on 23.12.2011 and he was considered under the applicable rules ordered in letter No. 17-17/2010-GDS dt. 14.12.2010. The Circle Relaxation Committee (CRC) considered his case along with

63 other cases and noted that his family comprised of two dependents, his father had 8 years and 5 months of service remaining, they did not own house or land nor did they have any earning member, and received Rs. 74,282/- as terminal benefits. On this basis, he was given seven points for dependents, four points for left-over service, five points for not owning a house, five points for not owning land, ten points on the basis that the family had no other income sources and twenty points for the terminal benefits received by them and zero points for the educational qualifications which in this case was only 9th Standard. This totalled 51 points and has not been contested in this application. The applicant's request was, however, rejected in impugned orders on the basis that under the prevalent rules, he could only have been considered based on his educational qualifications for the post of GDS but his case was not recommended as a married son is not considered a dependent of the deceased employee. This has reference to the clarifications issued to these rules on

09.10.2013 in No. 17-17/2010-GDS which reiterated the conditions initially specified when the Scheme was introduced on 04.08.1980 by which a doubt was clarified as below:-

x
x
x

S.No.	Point of Doubt	Clarification
2	In a case where the son of the deceased official who is applying for the job have attained majority age, working as cultivator, married and is having children residing with the family of the deceased, will he, his wife and children be considered as dependent of the deceased official or only he will be considered (without considering his wife and children as dependent) for earning points/scores for compassionate appointment?	None. A married son is not considered dependent on a GDS.

x
x
x

2. The applicant is challenging this provision of the Rules and has sought the following reliefs:-

"a) By issue of an appropriate order or direction, the impugned communication dated 29.01.2014, issued by the respondent No.2 through the letter dated 04.02.2014, issued by the respondent No.4, thereby denying compassionate appointment to the applicant may kindly be quashed and set-aside.

b) By issue of an appropriate order or direction, the respondent Nos. 1 to 4 may kindly be directed to consider the case of the applicant afresh and appoint him on the post of G.D.S. on compassionate ground, forthwith."

3. The grounds mentioned in the application are that the communication of 2013 was a clarification which did not find a place in the Scheme of Compassionate Appointment in the year 2010 and which took effect from 01.01.2011.

4. The respondents have stated that the request of the applicant was received in the Office of the Postmaster General on 21.04.2012 and thereafter, in the Office of the Chief Postmaster General, Mumbai on 07.11.2013 and it was considered in the CRC meeting on 31.12.2013 where an objective assessment was made that included consideration of the letter No. 17-17/2010-GDS dt. 09.10.2013 and a rejection letter was issued in consequence since the married son is not considered a dependent on the deceased GDS. They also reiterate that the clarification issued in this letter has to be read with the earlier instructions on the Scheme by which married sons having independent

income, even though living with the family of deceased, are not considered dependent.

5. During arguments, the learned counsel for applicant produced a letter No. 17-39/3/2012-GDS dt. 14.01.2015, which is not part of the original pleadings, in which it is clarified by the respondents that a married son shall also be considered as one of the dependents of the Sevak for the purpose of compassionate engagement where the married son resides with his grandparents/parents along with his wife and children and is dependent on the parents for livelihood and other needs provided he possesses the required educational qualification including computer knowledge.

6. The learned counsel refers to an order of this Tribunal in OA No. 624/2014 dt. 27.11.2015 which considered the aspect of discrimination between the married son and unmarried son and accordingly, set aside an order rejecting compassionate appointment based on this distinction. In response, the respondents point to Para 6 of that order which reads as "The clarification at Annexure R-1J

says that this clarification would be effective from the date of issue of FAQ viz. 25th February, 2015 and the cases of compassionate appointment already settled with regard to the FAQs dated 30th May, 2013 may not be reopened."

7. Further, learned counsel for respondents also refers to the clarification dt. 14.01.2015 mentioned above which provides at Para 4 that this clarification would be applicable from the date of issue of the letter which is 14.01.2015, well after the case of the applicant was considered by the CRC.

8. We have gone through the O.A. along with Annexures A-1 to A-8, Rejoinder, filed on behalf of the applicant. We have also gone through the reply along with Annexures R-1, filed on behalf of the respondents. The matter has been carefully considered and with reference to the Rules and the records produced by parties.

9. We have heard the learned counsel for the applicant and the learned counsel for the respondents and carefully considered the facts and circumstances, Written Submissions, law

points and rival contentions in the case.

10. It is settled law that clarification unless specified to the contrary, can only take effect from the date of issue and this has also been specified in the clarification issued on 14.01.2015. The clarification also specifies some conditions that the married son should be dependent on the parents for livelihood and other needs and that he should have the required educational qualifications including computer knowledge. No evidence has been adduced by the applicant to show that he has computer knowledge. This has relevance to the new eligibility rules for engagement of GDS issued in No. 17-39/6/2012-GDS dt. 14.01.2015, on the same date, by which the minimum educational qualification for the GDS was raised to SSC which is not possessed by the applicant and one letter of the same date cannot be read independently of the new Rules of the same date especially since the former prescribes prospective application.

11. A further point is on the nature of dependency of the applicant on his parents.

His mother who had filed the initial application on 23.12.2011, has nowhere stated that her sons are dependent on her and when she approaches a legal forum on this basis, her initial pleadings made at the outset will be subject to legal scrutiny and on this basis, it is clear that the applicant was not dependent on his parents at the time of demise of his father.

12. Even if the applicant now claims that he was actually dependent on his parents despite being married and that he possesses computer knowledge, any benefit from the clarification issued on 14.01.2015 must also be read with the revised rules issued on the same date which raised the educational qualification. Therefore, seen from every aspect, the applicant's case has no merits and the OA is accordingly dismissed. No costs.

(R. Vijaykumar)
Member (A)

Ram.