

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00545/2014

Reserved on : 12.4.2019
Pronounced on:22.4.19

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER (A)

Sri Puratan Bidiki, aged about 30 years, Son of Late Sanyasi Bidiki of Village Andarsing, Po. Ambharjhari, Ps. Paralakhemundi, Dist. Gajapati.

...Applicant

By the Advocate(s)-M/s.P.K.Mishra, S.K.Dash, S.K.Tripathy

-VERSUS-

1. Union of India represented through Director General of Posts, Ministry of Communication, Department of Post, Dakkar Bhawan, New Delhi.
2. Chief Postmaster General, Odisha Circle, Bhubaneswar, Dist. Khurda.
3. Assistant Director (CRC), Office of Chief Post Master General, Odisha Circle, Bhubaneswar, Dist. Khurda.

...Respondents

By the Advocate(s)- Mr.D.K.Mallick

ORDER

GOKUL CHANDRA PATI, MEMBER(A)

The applicant has filed this OA under the section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

".....allow this application, quash the office orders communicated to the Petitioner under Annexures-5 and 7 to this Original Application and direct the Respondents to appoint the Applicant on compassionate ground under the Scheme of Rehabilitation Assistance in the post against which the advertisement has been made under Annexure-10 to this application."

2. The facts of the case are not disputed. The applicant's father was a Gramin Dak Sevak (in short GDS) under the respondents and died in harness on 20.1.2010. The applicant applied for compassionate appointment and on 21.5.2012, he was asked to submit the documents for consideration of his claim. It was considered by the respondents who informed the applicant, vide order dated 19.8.2013 (Annexure-5 to the OA) that his case was rejected on the ground of less merit point compared to minimum merit point of 51 necessary for consideration. Thereafter, the applicant made a representation dated 28.12.2013 (Annexure-6) to the authorities for reconsideration, which was rejected on the ground that he secured 46 points compared to minimum 51 required for consideration and the applicant was informed accordingly vide order dated 8.1.2014 (Annexure-7 to the OA).

3. The main ground advanced in the OA was that his merit point was not assessed properly. For educational qualification, he was awarded 5 marks for qualification below 10+2, where as his educational qualification is 10+2 for which he should have got 20 marks after considering his certificate at Annexure-8. It is further stated in the OA that the applicant does not have any landed property for which he should have got 5 marks. Instead, he was given 0 marks.

4. In the Counter filed by the respondents, it is stated that there is no provision for the marks on the basis of educational qualification as per the revised guidelines vide letter dated 9.3.2012 (Annexure-R/1 to the Counter). Hence, no mark was given to the applicant on the ground of the educational qualification. Hence, the

claim of 20 marks in column 7 against 5 marks will not arise. Regarding the averment that the applicant should have got 5 marks since he does not own any agricultural land, it is stated in the Counter that as per the Income certificate issued by Tahsildar (Annexure-R/4), the applicant has got landed property and from solvency certificate of the applicant, it is seen that he has got a residential property. Hence, he was given zero marks on that account.

5. The applicant filed Rejoinder, stating that the solvency certificate issued by the Tahsildar, Gumma (Annexure-9 & 9A of the OA), the applicant does not own any agricultural land and has a residential property. Regarding agricultural income shown in Income certificate, it is stated that the applicant's family is engaged in agricultural activity in others' agricultural land and it does not imply ownership of agricultural land as per the guidelines of the respondents.

6. Learned counsel for the applicant, at the time of hearing, stressed on the point that as per the guidelines dated 14.12.2010 (Annexure-4 to the OA), the applicant deserved 5 marks since he has residential house and no agricultural land, as for the ownership of agricultural land, the solvency certificate should have been taken, not the Income certificate. It is explained that the agricultural income in the Income certificate is due to the income from agricultural activity taken up by the family in agricultural land of other villagers and it does not imply the ownership of agricultural land.

7. Learned counsel for the respondents opposed the contentions and reiterated the averments taken in the Counter that the Income certificate implies agricultural income and hence, the applicant was assessed correctly.

8. After considering the submissions and the documents available on record, I am unable to accept the contentions of the respondents. Regarding assessment of the family's ownership of the agricultural land and house as per the guidelines dated 14.12.2010 (Annexure-4 to the OA) read with the letter dated 9.3.2012 (Annexure-R/1 of the Counter), it is seen that the family of the deceased GDS did not own any agricultural land as shown in the Solvency certificate. In the income certificate although an income of Rs. 8000/- (Annexure-R/4 to the Counter), but it does not imply that the agricultural income is from the agricultural land owned by the family. As explained in the Rejoinder, the agricultural income is from the activity undertaken on the land belonging to others. From the Solvency certificate and Income certificate of the family on record, the explanation of the applicant that the agricultural income is from the activities taken up on others' land is acceptable. Nothing is mentioned in the Counter filed by the respondents as to how the agricultural income will imply ownership of land when the Solvency certificate states that the family does not own any agricultural land. The averment in the Counter that the agricultural income is on account of engagement of the family members on the agricultural land of other villagers, has not been contradicted by the respondents based on documents on record.

9. In view of the discussions above, I am of the considered view that the applicant was not assessed properly and his case needs reconsideration. Hence, the orders at Annexure No. 5 and 7 of the OA are set aside and the applicant is allowed liberty to submit a fresh representation to the respondent no.2 for compassionate engagement as per the guidelines dated 14.12.2010 (Annexure-A/4 to the OA) letter dated 9.3.2012 (Annexure-R/1 to the counter), mentioning the grounds mentioned in the OA as well as the Rejoinder about the marks awarded to him on account of the ownership of agricultural land and any other grounds to justify his claim within 10 days from the date of receipt of a copy of this order. If such a representation is received from the applicant within time as stipulated above, then the respondent no.2/competent authority will consider the said representation keeping in mind the discussions in this order and dispose of the representation as per law by passing a speaking and reasoned order to be communicated to the applicant within 3 (three) months from the date of receipt of the fresh representation from the applicant as stated above.

10. The OA is allowed in terms of directions in para 9 above. No cost.

(GOKUL CHANDRA PATI)
MEMBER (ADMN.)

BKS