

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/450/2014

Date of Reserve:15.03.2019

Date of Order:18.04.2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

1. Smt. Manju Dei, aged about 47 years, W/o. Late Jubaraj Bhoi, At-Sisua, PO-Bentkar, Dist-Cuttack-754 112.
2. Purnachandra Bhoi, aged about 29 years.
3. Dibakar Bhoi, aged about 25 years.

Both are S/o. Late Jubaraj Bhoi as per address above.

...Applicants

By the Advocate(s)-M/s.N.R.Routray

Smt.J.Pradhan

T.K.Choudhury

B.K.Mohanty

-VERSUS-

Union of India represented through:

1. The Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Cuttack City Division, At-P.K.Parija Marg, PO-Cuttack GPO, Dist-Cuttack-753 001.

...Respondents

By the Advocate-(s)-Mr.L.Jena

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J)

Applicant No.1 is the wife of late Jubaraj Bhoi, who while working as GDSMC-cum-Packer of Binodbihari S.O. in account with Chandinichown HO passed away on 15.01.2011. Applicant Nos. 2 and 3 are sons of the deceased Postal employee. They had earlier approached this Tribunal in O.A. 460 of

2012. This Tribunal vide order dated 18.07.2013 disposed the said O.A. in the following terms:

"3. It is the case of the applicant that after the death of the father applicant no.2 he applied for providing compassionate appointment but the same was rejected by the Circle Relaxation Committee vide letter dated 10.10.2012 (Annexure-A/3) on the ground that the applicant score only 40 merit points against 100 points scale. While the matter stood thus, again the Respondents vide communication dated 19.03.2013 (Annexure-A/4) communicated to applicant no.1 that her request for compassionate appointment in favour of applicant No.2 had been considered by the competent authority but was rejected on the ground that applicant no.2 only scored 40 point merit in 00 point scale based on various indigency attributes as prescribed by the Department whereas to be appointed as GDS on compassionate grounds minimum 50 points are required. Aggrieved with the above communication the applicants have approached this Tribunal seeking relief as referred to above.

During the course of hearing learned counsel for the applicants brought to my notice O.M.No.1404/19/2002-Estt.(D) dated 05.05.2003 and submitted that the case of the applicant No.2 for compassionate appointment has to be considered thrice.

I have gone through the DOP&T instruction dated 05.05.2003. The said instruction received due consideration in various cases and ultimately it has been held that as per the instruction dated 5.5.2003 case of appointment on compassionate grounds needs consideration thrice whereas the case of the applicant has been considered and rejected only twice. In view of the above, I am of the considered view that the case of the applicant needs consideration one more occasion. Hence, this O.A. is disposed of at this admission stage with direction to the Respondents to consider the case of the applicant no.2 for appointment on compassionate ground one more occasion by the ensuing CRC meeting and communicate the decision thereon to the applicant no.1 within a period of thirty days from the date of holding of the CRC meeting. There shall be no order as to costs".

2. In compliance with the above direction, Respondent No.2 vide order dated 26.12.2013 (A/7) rejected the claim of the applicant, the relevant part of which reads as follows:

"As per the direction of the Hon'ble Tribunal, Cuttack Bench, Cuttack vide order dated 18.07.2013 arising out of OA No.460/2013, the CRC which met on 06.12.2013 for GDS candidates considered the compassionate engagement case of Sri Purna Chandra Bhoi along with 50 cases keeping in view the instructions contained in the Directorate letter no.17-17/2010-GDS dated 14.12.2010, 01.08.2011, 09.03.2012, 13.04.2012 & 09.10.2012. The CRC did not find his case hard and deserving in terms of the parameters prescribed in the Directorate letter No.1717/2010-GDS dated 13.04.2012 as he secured only 40 merit points in a 100- point scale based on various indigency-related attributes, prescribed by the Department, whereas to be recommended for any GDS post, a candidate must have to secure over and above 50 merit points to be treated as 'hard and deserving'.

In accordance with the norms of the Department, I accept the decision of the Circle Relaxation Committee held on 06.12.2013 and reject the case accordingly".

3. Aggrieved with the above, the applicants have invoked the jurisdiction of this Tribunal by filing the present O.A. in which they have sought for the following reliefs:

"...to quash Annexure-A/7 and direct the Respondents to reconsider the case of applicant no.2 by adding 25 points and provide compassionate appointment in any GDS post from the date the other selected candidates of the same batch got appointment under compassionate quota".

4. The basic ground on which the relief has been sought by the applicants is that as per merit points a Graduate should get 25 points and since in the instant case, applicant no.2 is a Graduate, the respondents without awarding any point against this attribute, have rejected the request for compassionate appointment. On the other hand, it is the case of the applicants that had 25 points been awarded against the Educational Qualification as Graduate, applicant no.2 would have scored over and above 50 points merit and got appointment on compassionate grounds.

5. Contesting the claim of the applicant, respondents have filed a detailed counter. According to respondents, applicant no.2's case for compassionate appointment was considered as per the provisions and instructions issued vide R/1 dated 14.12.2010. The points to be awarded for Educational Qualification vide R/1 stood deleted vide-2(a) of Directorate letter dated 09.03.2012 (R/2) and this is the reason, why the applicant nos.3 and 2 secured 40 points based on the points awarded against the indigency-related attributes. According to them, since applicant no.2 did not score the points over and above 50 points, the O.A. as led by the applicant deserves to be dismissed being devoid of merit.

6. Heard the learned counsels for both the sides and perused the records. On a reference being made to R/1 dated 14.12.2010, it is seen that the proposed slabs on educational qualification in respect of Graduate, 10+2 and below 10+2 are 25, 20 and 5 respectively. These slabs on educational qualification stood deleted vide R/2 dated 09.03.2012. It is borne out by the fact that the request for compassionate appointment of 1st son Sri Dibakar Bhoi (Applicant No.3) having been considered, the CRC did not recommend his case as he secured 40 merit points in a 100-points scale based on various indigency-related attributes prescribed by the Department which in other words did not come within the meaning of hard and deserving case. Thereafter, applicant No.1 submitted a representation dated 22.12.2012 to consider the case of his son which having not been acceded to, O.A.No.460 of 2013 was filed by the applicants. As per the direction of this Tribunal, as quoted above, applicant no.2's case along with 50 others was considered by the CRC which met on 06.12.2013 and since the applicant no.2 secured only 40 merit points in a 100-point scale, his case for compassionate appointment

was not recommended. From this, the Tribunal is of the opinion that there is no illegality in considering the case of applicant no.2 for compassionate appointment. Since by the time representation dated 22.12.2012 was submitted by applicant no.1 for considering the applicant no.2 for compassionate appointment, the slab on educational qualification stood deleted vide R/2 dated 09.03.2012 and hence no longer was in force. Indisputably, this benefit in so far as applicant no.3 is concerned, had availed of while considering him for compassionate appointment. Therefore, again while considering the case of applicant no.2 in pursuance of direction of this Tribunal in O.A.No.460 of 2013 the respondents did not adhere to the assignment of slab on educational qualification since by that time, it was no longer in force. To this extent, the respondents cannot be at fault. However, it has come to the notice of this Tribunal that vide Office Memorandum dated 16.02.2013 the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training have issued consolidated instructions on compassionate appointment. Paragraph-8 of the said Office Memorandum reads as follows:

"8. TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT.

Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M.No.14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case".

7. In this view of the matter, this case is remitted back to the respondent-authorities to reconsider the request of applicant no.2 for compassionate appointment and take a decision on merit having regard to the provisions of

DOP&T Office Memorandum, as quoted above, and pass appropriate orders to be communicated to the applicant no.2 within a reasonable time.

8. With the above observation and direction, this O.A. is allowed the extent indicated above, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

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