

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.260/544/2014

Cuttack this the 21<sup>st</sup> day of January, 2019

CROAM:

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

Sri ManojKumar Samal, aged about 33 years, S/o. Late Dharanidhar Samal, Ex-GDSMC of Kansa B.O., resident of Vill/PO-Kanakadpal, PS-Kaliapani, Dist-Jajpur.

...Applicant

By the Advocate(s)-M/s.C.P.Sahani

P.K.Samal

D.P.Mohapatra

-VERSUS-

Union of India represented through:

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

...Respondents

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

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant's father while working as GDSMC of Kansa Branch Post Office in account with Kalaringatta S.O. in the Department of Posts died on 30.03.2011, leaving behind the applicant, his widow mother, a physically handicapped daughter and one elder brother. Applicant's application for compassionate appointment was considered by the Circle Relaxation Committee (in short CRC) and was rejected vide communication dated 30.3.2012(A/6) on the ground that the applicant failed to score more than 50 merit points. Being dissatisfied, applicant submitted a representation to Respondent No.3 to resubmit his case before the CRC keeping in view the

points fixed vide No.17-17.2010-GDS dated 9.3.2012 as circulated vide CPMG Office Memo No.RE/17-1/R1g./2004/Ch.III dated 20.3.2012. Since, it did not yield any fruitful result, applicant approached this Tribunal in O.A.No.998 of 2012. This Tribunal vide order dated 7.1.2013 disposed of the said O.A. as under:

- "2. At the outset, Mr.Padhi, Ld. Counsel for the applicant submitted that ventilating his grievance applicant has already made representation to the Supd. Of Post Offices, Cuttack North Division, Cuttack, Respondent No.3 against the order of rejection under Annexure-A/6 dated 30.03.2012, which has not been dated, but Mr.Padhi submitted that the same has been submitted since long and the applicant has not received any respondent to that representation.
3. Mr.Dash, Ld.Addl.Standing Counsel is not in a position to apprise this Tribunal regarding status of this representation. Therefore, without entering into merit of this O.A., I feel it proper to dispose of this O.A. at the stage of admission itself with direction to Supd. Of Post Offices, Cuttack North Division, Cuttack, Respondent No.3, to consider the representation, if the same has not been disposed of till date, and pass reasoned and speaking order and communicate the result thereof to the applicant within a period of two months from the date of receipt of this order. Ordered accordingly".

2. In compliance of the aforesaid direction of this Tribunal, a fresh 100% calculation sheet in respect of the applicant as prescribed was collected to gauge the indigence level and it was decided that the applicant had secured 42 merit points which is less than the minimum required merit point 51 and accordingly, vide communication dated 26.12.2013(A/10) the case of the applicant was rejected. In the fitness of things, the relevant part of rejection order dated 26.12.2013 reads as follows:

"In obedience to the decision of the Hon'ble CAT, Cuttack Bench, the representation of the applicant considered by the Supdt. Of Posts, Cuttack North Division, Cuttack. The SOPs has issued reasoned and speaking order vide his Memo

No.F/C-Case-02/2013 dated 15.03.2013 which was communicated to all concerned.

In his order dated 15.03.2013, the SPOs has intimated to all concerned that as he has no authority to reconsider the case of the applicant in the next CRC and it is vested on the Chief Postmaster General, Odisha Circle, Bhubaneswar to take decision for reconsideration in the next CRC.

To comply the order of the Hon'ble CAT, Cuttack Bench, Cuttack, a fresh 100-point calculation sheet in respect of the applicant as prescribed by the Department was collected from the SPOs Cuttack North Division, Cuttack to gauge the present indigency level of the applicant. In the 100-point scale the applicant secured 42 merit points,. As per the existing rules and guidelines of the Department, the applicant must have to score minimum 51 merit points to be recommended for engagement on compassionate ground.

In view of the facts narrated above, even though the representation of the applicant was taken into account, the applicant's case could not be recommended for engagement in any GDS post on compassionate ground".

3. Aggrieved with this, the applicant has filed the present O.A. praying for the following reliefs:

"...to quash Annexure-A/10 and direct the respondents to reconsider the case of applicant taking into consideration the liability of disability unmarried sister, old widow mother & fresh income certificates & as per latest circular of Govt. of India for providing compassionate appointment".

4. The grounds on which applicant has mainly based his claim are that the respondents while considering compassionate appointment did not take into account his income as well as the fact of his unmarried daughter who is 90% physically disabled is living in the family. According to applicant, respondents cannot frame a straight jacket formula even if there is no point prescribed to be awarded for physically handicapped dependant. This, according to applicant, amounts to violation of the mandate of International Convention on the basis of which Persons with Disabilities (Equal Opportunities, Protection

of Rights and Full Participation) Act, 1995 was framed to render assistance in all spheres. It is submitted that no one in the family is gainfully employed nor the family has any regular source of income. The Income Certificate issued by the Tahasildar is based on hypothesis in so far mention of income from the labour is concerned on the ground that no regular work is available. Therefore, the family is indigent and deserves a compassionate appointment.

5. In the counter filed by the respondents, it has been submitted that as per the instructions and guidelines issued by the Postal Directorate vide R/1 and R/2, there is no provision for awarding separate merit point for physically handicapped dependant of the deceased. They have further stated that the income certificate showing income of Rs.39,000/- per annum (R/4) in respect of the mother of the applicant and Rs.39,000/- per annum in respect of the applicant have been taken into account while awarding the merit points. In the end, the respondents have submitted that the applicant having scored 41 merit points against the required merit points of 51 his case could not be placed before the CRC for consideration. They have, therefore, submitted that the O.A. being devoid of merit is liable to be dismissed.

6. Heard the learned counsels for both the sides and perused the records. During the course of hearing learned counsel for the applicant filed Office Memorandum dated 26.7.2012 issued by the Government of India in the Department of Personnel & Training in which it has been indicated that a time limit of three years as prescribed for considering cases of compassionate appointment vide OM No.14014/19/2002-Estt.(D) dated 5.5.2003 of the DOP&T has been re-examined in consultation with the Ministry of Law and it has been decided to withdraw the instructions contained in the said OM dated 05.05.2003. Further, it has been stipulated that the cases of compassionate

appointment may be regulated in terms of instructions issued vide O.M. dated 09.10.1998 as amended from time to time. The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment. Further, in the rejoinder filed the applicant has brought out a circular dated 30.05.2017 issued by the Department of Posts, which reads as under:

“Sub: Review of the scheme for engagement of a dependent of deceased Gramin Dak Sevaks on compassionate grounds:

I am directed to refer to this office letters Nos. 17-1712010-GDS dated 14.12.2010 and 17.12.1015 vide which instructions on engagement of dependents of deceased Gramin Dak Sevak on compassionate grounds have been issued.

2. The Scheme has been reviewed in this Directorate and it has been decided to introduce revised scheme for compassionate appointment of an eligible dependent of deceased Gramin Dak Sevaks. Under the revised scheme point system has been dispensed with and scheme has been extended to dependents of missing GDS also.
3. The scheme will come into effect from the date of issue of the letter and will be applicable to all cases pending and arising on or after the said date. The cases which have already been settled will not be reopened”.

7. I have considered the rival submissions. As noted above, vide Office Memorandum dated 26.07.2012 issued by the Government of India in the Department of Personnel & Training, time limit of three years as prescribed for considering cases of compassionate has been withdrawn and simultaneously, it has been directed to consider the cases of compassionate appointment in terms of instructions issued vide O.M. dated 09.10.1998 as amended from time in the meantime. In addition to this, it is noted to be noted that since the matter is *sub judice* before the Tribunal, it cannot be said that the grievance of the applicant for compassionate appointment has been settled within the scope and meaning of circular dated 30.05.2017 cited supra.

In view of this, Respondents are directed to reconsider the case of the applicant for compassionate appointment in the light of the instructions issued vide Office Memorandum dated 09.10.1998 read with the circular dated 30.05.2017 and pass an appropriate orders within a period of ninety days from the date of receipt of this order.

8. In the result, the O.A. is allowed as above, with no order as to costs.

(SWRRUP KUMAR MISHRA)  
MEMBER(J)

BKS