

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/885/2013
Cuttack this the 21st day of January, 2019

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

Sanjukta Singh, aged about 32 years, D/o.late RamanathSnhg, a resident of Hillung, PS-Biramaharajpur, Dist-Subarnapur.

...Applicant

By the Advocate(s)-M/s.M.Mohnty
S.Rath
D.D.Sahu
S.Patra

-VERSUS-

Union of India represented through:

1. The Director General, Department of Posts, DakBhawan, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda.
3. Superintendent of Post Offices, Balangir Division, Balangir, Dist-Balangir.

...Respondents

By the Advocate(s)-D.K.Mallik
ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has sought for the following reliefs:

- i) The Original Application be allowed.
- ii) Respondents be directed to give appointment to the applicant under compassionate basis after quashing the orders under Annexures-A/5 & A/6.
- iii) Any other order(s) may be passed giving complete relief to the applicant in the interest of justice and equity.

2. The short facts of the case are that the applicant's father while working as GDS BPM, Hillung BO in account with B.M.Pur SO under Balangir HO in the Department of Posts, breathed his last on 21.01.2011 leaving behind his wife,

two married daughters including the present applicant. Applicant's request for compassionate appointment although was considered by the Circle Relaxation Committee, but the same was rejected vide letter dated 23.10.2012(A/5). The reason for which her request for compassionate appointment was rejected reads as under:

"Sub: Compassionate engagement case of Sanjukta Singh, D/o. Late Ramnath Singh, Ex GDS BPM, Hillung BO in account with B.M.Pur SO under Balangir HO:

It is to intimate you that your application for compassionate engagement has been taken into consideration but your case is not found "hard and deserving one" and as such your application/claim for compassionate engagement is rejected by CRC as communicated vide CO letter no.RE/CRC/2012(i)(GDS) dated 5.10.2012".

3. Being dissatisfied, the mother of the applicant submitted a representation dated 2.5.2013 to Respondent No.2 viz., Chief Post Master General, Odisha Circle, Bhubaneswar, praying for appointment on compassionate grounds in favour of her daughter, the present applicant. However, vide communication dated 8.5.2013 (A/6), it was intimated as under:

"Sub: Regarding compassionate appointment of Miss Sanjukta Singh:

I am directed to intimate that as per the existing rules and guidelines of the Department in respect of compassionate appointment, a minimum of 51 merit points are to be secured by the applicant to be approved for appointment in compassionate ground.

Since, the merit points secured by your daughter is less than the minimum, your representation dated 02.05.2013 is rejected".

4. Hence by filing the present Original Application, the applicant has prayed for the reliefs as mentioned above.

5. By filing a detailed counter, respondents have opposed the prayer of the applicant. The main thrust of the counter is that since the applicant secured 33 merit points which is below 51 against the 100 points scale, her request for compassionate appointment was not acceded to. In other words, according to respondents, applicant in order to be eligible for compassionate appointment ought to have secured the minimum 51 merit points out of 100 points scale. The respondents have further submitted that the CRC while considering the compassionate appointment has taken into account all the relevant rules and instructions on the subject and at no point of time, there has been any illegality shown while considering the case of the applicant for compassionate appointment. 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, this Tribunal came across 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. From the records, it is found that in support of rejection of compassionate appointment in favour of the applicant, the respondents have assigned different reasons. Whereas the ground of rejection as communicated in letter dated 23.10.2012(A/5) states the case is not found "hard and deserving one" in the communication made vide letter dated 8.5.2013 (A/6), it is stated that "the merit points secured by the applicant is less than the minimum". Conversely, to supplement their stand point as aforesaid, in the counter they have come up with a plea that the applicant secured 33 merit points out of 100 points scale which is below the minimum 51 merit point to be secured for compassionate appointment. From this, it is quite clear that all these statements have been made by the respondents without properly thinking and verifying the pros and cons of the matter. Be that as it may, 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)

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