

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/01258/2015

Date of CAV : 13-11-2018

Date of Order : 15-11-2018

Between :

Lingala Tara W/o Late Lingala Mallaiah,
Ex-Sub Postmaster, Molungoor S.O,
Aged about 46 years, R/o H.No.11-04-227/1,
Christian Colony, Laxmipur,
Warangal – 506 013.

....Applicant

AND

1. The Union of India represented by
Its Secretary,
Ministry of Communications & IT,
Department of Posts – India,
Dak Bhavan, Sansad Marg,
New Delhi – 110001.
2. The Chief Postmaster Genral,
A.P.Circle, “Dak Sadan”, Abids,
Hyderabad – 500 001.
3. The Postmaster General,
Hyderabad Region,
Hyderabad – 500 001.
4. The Superintendent of Post Offices,
Peddapally Division, Peddapally – 505172.

...Respondents

Counsel for the Applicant: Mr.M.Venkanna

Counsel for the Respondents : Mrs.B.Gayathri Varma, Sr PC for CG

CORAM :

THE HON’BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon’ble Mr. Swarup Kumar Mishra, Judicial Member)

(Order per Hon'ble Mr. Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the Administrative Tribunals Act, 1985 to quash and set aside the Memo No. PMG(H)/RE/Comp. Appt/Misc/2013, dated 13-07-2015 as arbitrary and illegal and opposed to the sacred scheme of compassionate appointments and consequently direct the respondents to consider the name of the applicant in the subsequent CRC meetings for consideration of compassionate appointment to any eligible departmental post in the interest of justice and be pleased to pass such other order or orders as this Tribunal deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that, the applicant's husband was appointed as Postal Assistant in Peddapally Division and died in harness on 03-01-2009. He left behind a family consisting of wife Lingala Tara, aged 40 years ie the applicant herein and a Minor Son Lingala Vivek Kumar Mahanta, aged 12 years and old aged mother Smt. Lingala Balaramma, aged about 75 years. The applicant submitted her representation to the respondents for payment of pensionary benefits and compassionate appointment for her. The applicant had applied for compassionate appointment by submitting her educational qualifications.

3. The applicant's family had a small house which was built on grant of House Building advance which was later sold away after demise of her late husband for clearance of a part of the debts occurred during the life time of

her husband. Now, the applicant is staying in a rental house and has no movable or immovable property. The applicant is getting a meagre family pension which is not sufficient for simple sustainment of life. After demise of the applicant's father, the applicant received death gratuity of Rs.7,00,000/- which is spend on clearance of the debts incurred during the life time of the deceased employee.

4. The applicant made further representation on 12-10-2014 and 26-02-2015 to the respondents to consider her appointment on compassionate grounds. The respondents without considering the request of the applicant had simply rejected the request. The same was informed to the applicant by the 3rd respondent vide memo No. PMG(H)/RE/Comp.Appt/Misc/2013, dated 20-04-2015. Aggrieved by the orders of the 3rd respondent, the applicant made another representation dated 03-07-2015 to the 2nd respondent for redressal of her grievance.

5. The respondents without considering the claim of the applicant for compassionate appointment but simply rejected the claim of the applicant for appointment on compassionate grounds only on 13-07-2015 vide impugned memo on flimsy ground of that the applicant is not coming merit for selection against the 5% of total vacancies.

6. Learned counsel for the applicant contends that, as can be seen from the various attributes for the purpose of awarding marks under 100 points scale, the applicant would get 14 points being minimum pension, 5 points

for 'no income from property', 10 points on 'no movable or immovable property, 15 points for 'dependents', 5 points for 'minor son', 4 points for left over service and 15 points for 'being wife of the deceased official'.

7. Learned counsel for the applicant further contends that, the respondents have not properly assessed the indigent circumstances of the applicant and rejected the claim of the applicant in a summery manner. They have not taken into consideration that the applicant's husband died while discharging his official duties. Hence this application.

8. Respondents have filed reply statement stating that the applicant herein has applied for appointment for the post of Postal Assistant under Compassionate grounds. The synopsis forms have been obtained from the applicant and submitted to the Postmaster General, Hyderabad Region, Hyderabad, the 3rd Respondent herein vide 4th Respondent letter No.B1-Com/APPT/11, dated 21.11.2011 and subsequently the required information and omissions were supplied on 04.01.2012, 16.02.2012, 12.03.2012 and 17.09.2012.

9. The case was examined during the Circle Relaxation Committee (CRC) held on 29.04.2014 and it was rejected on the plea that the vacancies are restricted to 5% of the total Direct Recruitment (DR) vacancies and did not merit the selection as per the relative merit points communicated by the Postal Directorate, New Delhi. The Respondents further submit that representations dated 12-10-2014 and 26-02-2015 were not received from

the applicant.

10. The Respondents, in support of their contentions, submit that the compassionate appointment is not a matter of right and it is to relieve the family from penurious and distress condition. Further, this is a policy matter. With these submissions, the Respondents pray for dismissal of the OA.

10. We have heard Mr.M.Venkanna, learned counsel for the applicant and Mr.B.GayathriVarma, learned Standing Counsel for Respondents.

11. Learned counsel for the applicant, in support of his contentions, relied on the order in OA No.262/2016, dated 13.11.2017 of CAT,Hyderabad Bench.

12. The application of the applicants for compassionate appointment in favour of the applicant was rejected and the same was communicated to her as per letter dated 13.07.2015 vide Annexure A-I. In the said letter it was intimated to her as under :

“..... your case has been examined and rejected by the CRC held on 29.4.2014 since the vacancies are restricted to 5% of the DR vacancies and it did not merit the selection as per relative merit points communicated by the Directorate.”

The relevant merit points as awarded to the applicant vis-a-vis other candidates was not produced by the Respondents and they have also not mentioned about the same in their counter affidavit. The total number of

vacancies which were available to be considered in CRC on 29.04.2014 has also not been mentioned or in any other document produced before the Tribunal. In the absence of necessary information and documents, this Tribunal find that the Respondents have not passed reasoned orders for rejecting the case of the applicant. This Tribunal in OA No.262/2016 dated 13.11.2017, in similar circumstances have found in para-6 of the order as under :

“6. Having gone through the rival submissions, the Tribunal finds that the respondents did not furnish the complete data with regard to the selection relating to the compassionate appointment. They only stated that they made comparative study of the candidates and on such study the applicant was found to be less meritorious and therefore, she could not be selected in the 5% quota. More than that they have not furnished any details. Therefore, it is rightly contended by the learned counsel appearing for the applicant that the order passed by the respondents is not a speaking order. Further now it is well settled that if on a few occasions the case of a candidate for compassionate appointment is not considered the said candidate is not debarred from making further claim. The candidate can make further application seeking compassionate appointment and the respondents shall consider the claim whenever subsequent vacancies arise.”

Therefore, taking into consideration the said legal position, the Respondents are directed to reconsider the application of the applicant for compassionate appointment in the next CRC meeting and to pass appropriate orders giving adequate reasons in support of the said order. The Respondents shall communicate the said order to the applicant soon thereafter.

13. Accordingly the Original Application is allowed. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 15th November, 2018.

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