

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

OA/021/855/2017

**Reserved on: 02.04.2019
Order pronounced on: 04.04.2019**

Between:

G. Kartheek,
S/o. Late Goli Gangaram (ex GDS BPM,
Berhampur BO a/w Gudihatnoor SO),
Age 19 years
R/o Neredegunda village & PO
Adilabad District.504 308.

...Applicant

And

1. The Union of India rep. by
Secretary,
Ministry of Communications & I.T.,
Department of Posts – India,
Dak Bhavan, Sansad Marg,
New Delhi – 110 001.
2. The Chief Postmaster General,
Telangana Circle,
Hyderabad – 500 001.
3. The Postmaster General,
Hyderabad Region,
Hyderabad – 500 001.
4. The Superintendent of Post Offices,
Adilabad Division,
Adilabad – 504 001.

...Respondents

Counsel for the Applicant ... Mr. M. Venkanna
Counsel for the Respondents ... Mrs. D. Shobha Rani, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The O.A. has been filed for non-grant of compassionate appointment to the applicant.
3. The brief facts of the case are that the applicant's father died in harness on 12.4.2011 while working as GDS BPM in the respondent organization. The deceased employee left behind wife, two minor sons along with an old aged mother. The applicant claims that he has no land or house and, therefore, he has no dependable income to lead a decent life. On the demise of his father, the mother of the applicant applied for compassionate appointment. But the same was rejected on the ground that she does not possess the required educational qualification. Aggrieved over the same, applicant's mother approached this Tribunal in OA No.1141/2012 but the same was dismissed. At that juncture of time, the applicant was a minor and, therefore, he could not apply for compassionate appointment. Nevertheless, on attaining majority, the applicant applied for compassionate appointment. But his application was rejected by the respondents on 12.05.2017 stating that the case of his mother for compassionate appointment was already rejected and, therefore, it cannot be entertained once again.
4. The contentions of the applicants are that application of applicant's mother was rejected on the ground that she did not possess the required educational

qualifications. The respondents failed to assess the indigent circumstances in which the family was living. In fact, this is the main criterion which needs to have been examined before rejecting the application of applicant's mother. The applicant also contends that he has no source of dependable income and unless he gets compassionate appointment, it would be difficult for him and his family to pull along. The meagre terminal benefits granted by the respondents tantamounting to Rs.40,000/- do not help the family to lead a decent life.

5. The respondents in their reply contend that as per Postal Directorate instructions, an application for compassionate recruitment once rejected should not be entertained. The case of applicant's mother for compassionate recruitment was rejected as she did not possess the minimum educational qualification. Usually, the respondent organization examines the compassionate recruitment cases basing on the merit points secured by the candidates. The points are allotted for different attributes pertaining to the family circumstances of the candidates. In the instant case, on the demise of the applicant's father, an amount of Rs.77,191/- was paid to the family of the deceased employee. Besides, as per the synopsis given by the applicant's family, it is seen that they have an annual income of Rs.15000/- per annum. Moreover, the case is more than five years old and it is an indication that the family could sustain over these five years by earning from other sources. The objective of compassionate recruitment is to provide immediate relief on the death of the employee and not after many years of the demise of the employee. Therefore, keeping the above in view, the request of the applicant could not be entertained. The respondents have cited the judgements of the Hon'ble Supreme Court and also certain verdicts of this

Tribunal in support of their assertion of rejection of applicant's request for compassionate appointment.

6. Heard Sri M. Venkanna, learned counsel for the applicant and Smt. D. Shobha Rani, learned Standing Counsel for the respondents. Perused the documents as well as the material papers submitted by them.

7. Primarily, on studying the case it is observed that the compassionate recruitment of the mother of the applicant was rejected on the ground that she did not possess the required educational qualification. The respondents followed the directions of Ministry of Personnel, Public Grievances & Pensions *mutatis mutandis*. The action of the respondents in rejecting the request of the applicant's mother for compassionate recruitment is against the clarification issued by O.M. No.14014/6/86-Estt (D) dated 30.6.1987. In the said letter, it was specifically clarified that the relaxation will be available only to the widow/ widower of the deceased Agent and that too only for appointment against such category of ED posts for which the prescribed minimum educational qualification is that of Group 'D' i.e., middle class pass. The claimant widows/ widower should, however, at least be a literate in cases where the minimum education qualification is relaxed in his or her favour. As can be seen from the clarification, the mother of the applicant was a literate to the extent required. Therefore, based on this clarification, applicant's mother should have been considered for compassionate recruitment. Nevertheless, since her case could not be considered it is fair and genuine to consider the request of the applicant. The applicant has got the requisite qualifications to be considered for compassionate appointment. The respondents through their reply statement, have brought to light that the

Postal Directorate vide letter No.17/1/2017-GDS dated 30.5.2017 has dispensed with the point system while considering cases for compassionate recruitment in the posts of GDSs. The respondents state that this relaxation would be applicable only with prospective effect and not retrospective effect. In this regard, the Hon'ble Supreme Court in High Court of Delhi & Another v A.K. Maharajah & Ors in CAs No.6397 – 6398 of 2001 has held as under:

“23. The law regarding retrospectivity or retroactive operation regarding the rules of selection is that where such amended rules affect the benefit already given, then alone such rules would not be permissible to the extent of retrospectivity.”

8. The respondents, as stated above, cited several judgements of the Hon'ble Supreme Court. But those are not relevant to the present case since the case of the applicant was not assessed as per rules and law. The application of the applicant's mother was rejected without considering the above said letter of Ministry of Personnel. The Tribunal generally directs the respondents to consider the case for compassionate appointment but does not direct to provide compassionate appointment. Even in the present case, it is only a directive to the respondents for considering the case of the applicant in question. The applicants do not have a right to be appointed on compassionate grounds. However, they have a right to be considered for compassionate appointment. The different judgements cited have been perused and found the facts therein to be different and, therefore, they do not apply to the present case.

9. Keeping the above in view, the respondents are directed to consider the case of the applicant for compassionate recruitment based on the latest

instructions dated 30.5.2017, by making a proper assessment of the indigent circumstances in which the family of the applicant is living. After obtaining the report, the same shall be placed before the Circle Relaxation Committee for examination and decide the case. Time allowed to complete the above exercise is three months from the date of receipt of this order.

10. With the above direction, the O.A. is allowed. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

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