

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CIRCUIT BENCH AT SRINAGAR**

OA No. 062/01325/2017

**Pronounced on : 28.11.2018
Reserved on : 13.11.2018**

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS.P. GOPINATH, MEMBER(A)**

Ghulam Mohammad Wani S/o Late Sh. Abdul Samad, R/o Watkaloo
Chadoora, District Budgam, Aged 32 years, Kashmir.

.....Applicant

**BY ADVOCATE: Ms. Nida Nazma proxy counsel for Sh. Uma Rashid
Wani**

VERSUS

1. Union of India through Chief Post Master General, J&K, Srinagar
2. Director Post Offices J&K Srinagar
3. Assistant Superintendent of Posts, West Postal Sub Division GPO
Complex, Srinagar 01.

.....Respondents

BY ADVOCATE: Sh. Nazir A. Bhat

ORDER

MRS. P. GOPINATH, MEMBER(A):-

1. Applicant was temporarily engaged as GDSMC (Gramin Dak Sewak Mail Carrier) on 11.11.2013 against the death vacancy of his father who died in harness. On 18.02.2014, applicant was served with a letter in which he was informed that his case for compassionate appointment could not be considered, as a married son is not considered as a dependant of a

GDS. Applicant challenged this rejection before the Tribunal in OA No. 062/00002/2016 (Annexure B) wherein the following order was passed:-

“8. In the light of the above, we are left with no other option but to allow the O.A. Impugned orders are hereby quashed and set aside. The matter is remitted back to the respondents to reconsider the case of the applicant for compassionate appointment as per instructions in that behalf if he fulfills other conditions as stipulated therein, by passing a reasoned and speaking order within a period of two months from the date of receipt of a certified copy of the order under intimation to the applicant.”

2. On 19.04.2017, the provisional engagement of the applicant was terminated. The prayer of the applicant is for quashing the order of termination dated 19.04.2017 and to grant appointment to him on compassionate grounds.

3. In the reply statement, the main argument of the respondent is that the applicant was engaged on a temporary basis on the death of his father and that there was no permanent appointment offered to the applicant. The second contention of the respondents is that subsequent to the computerization of the Branch Post Offices, the GDS are required to have educational qualification of Secondary School pass and knowledge of use of computers both of which applicant does not possess. The applicant is only 8th pass and therefore, does not have the prescribed educational qualification. The applicant also does not have knowledge of computers. Moreover, it is very essential to have computer knowledge as all GDS post offices are being computerized and GDS are expected to work on hand held devices/laptops. Hence, non-possession of this qualification would render the applicant ineligible to perform services which the respondent department, i.e. Post Office provides to the public. Hence, possessing this qualification is essential.

4. The respondent department vide letter No. 17/39/6/2012-GDS dated 14.01.2015 has already allowed that a married son is to be considered as one of the dependent members of the GDS for the purpose of compassionate appointment. Hence, applicant's married status would not be a hindrance to his appointment.

5. From Annexure A produced by the applicant, it is noted that the engagement of the applicant was purely on temporary and ad hoc basis and the arrangement was liable to be terminated at any time without assigning any reason. There are, however, several judgements of the Tribunal that such "impromptu" terminations go against the principles of natural justice as before such termination, the applicant has a right to be issued a show cause notice and to make his submissions on the same, thereby, being given an opportunity of being heard, before any action is contemplated.

6. We find that the applicant despite being engaged for over four years does not have the required educational qualification and knowledge of computers. Applicant nowhere indicates that his engagement on his father's demise was made after following the laid down recruitment procedures. Further, applicant himself admits that possession of secondary school qualification is a mandatory requirement and an eligibility criteria for engagement of GDS. Vide para B(b) of the scheme for compassionate appointment produced as Annexure E, there is a provision that the Secretary of the Department is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules, in the case of appointment at the lowest level, in case the dependent family member for a period of two years, beyond which no relaxation of educational qualification

would be admissible, and the services of the person concerned, if still unqualified, are liable to be terminated.

7. We see a window of opportunity in the above clause B(b) in providing relief to the applicant. The applicant is directed to obtain the qualification of 10th pass and pass a recognized and certified computer course as required under the recruitment rules and allowed under the compassionate appointment rules, within a period of two years from the date of issue of this order, failing which his services can be terminated. Till then the applicant be allowed to continue in service. We also direct that in case the applicant qualifies both these qualifications prior to two years prescribed by this Bench, his services may be regularized on a date earlier than two years.

8. OA stands disposed of in the above terms. There shall, however, be no order as to costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:
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