

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 14th day of March Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1906/2016

A. Babu,
S/o. Late Aree Thirupal,
No.23, B Block,
Housing Board Colony,
Pudupet, Chennai-600 002.

....Applicant

(By Advocate: Mr. A.R. Suresh)

Versus

1. The Union of India Rep. by
The Secretary to Government,
Ministry of Shipping,
New Delhi-1;
2. The Director General,
Directorate of Lighthouses & Lightships,
'Deep Bhavan'
A-13, Sector 24, Gautam Budh Nagar,
Noida- 201 301 (U.P.);
3. The Director,
Directorate of Ligh Houses & Light Ships,
'Deep Bhavan', 5/20 Jaffer Syrang Street,
Chennai- 600 001;
4. The Administrative Officer,
O/o. The Director General,
Directorate of Lighthouses & Lightships,
'Deep Bhavan',
A-13, Sector-24, Gautham Budh Nagar,
Noida-201 301 (U.P.).

...Respondents

(By Advocate: Mr. S. Nagarajan)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Applicant has filed this OA seeking the following relief:-

"to call for the entire records pertaining to the impugned order pertaining to the impugned order passed by the 4th respondent herein vide his proceedings No. 24/3/2015-Admn-I dated 23rd May 2016 and quash the same as illegal, arbitrary, unreasonable, being violative of rules and principles of natural justice and consequentially direct the respondents to provide employment to the applicant on compassionate grounds consequent upon the death of the applicant's father on 25.06.2006 in harness commensurate with his educational qualification or in any suitable post."

2. The grievance of the applicant is that representations made by him and his mother for compassionate appointment following the death in harness of his father on 25.07.2006 were not considered. Finally, the applicant's candidature was rejected by an order dated 26.05.2014 on the ground that as per recruitment rules, age relaxation of five years only could be granted for SC candidates over and above the age limit of 27 years for the post of Lighthouse Attendant.

3. The applicant's mother made a further representation dated 23.09.2014 which was not considered. Accordingly, the applicant filed O.A. 280/2015 which was disposed of by this Tribunal by an order dated 31.03.2016 directing the respondents to consider the representation made by the applicant's mother dated 21.11.2014 as per rules and pass a speaking order. The impugned order dated 23.5.2016 came to be passed in pursuance

thereof, aggrieved by which the applicant is before this Tribunal in this second round of litigation.

4. It is the applicant's contention that the respondents failed to consider his case by applying the age limit criteria too rigidly. They also failed to consider the allegedly indigent circumstances of the family which lost its sole earning member in the death of the applicant's father. As the applicant was aged 27 years and 6 months only at the time of death of his father, he ought to have been considered for appointment on compassionate grounds.

5. Respondents, on the other hand, contend that according to the DOP&T guidelines, compassionate appointment could only be considered for 5% of direct recruitment vacancies. The Directorate/second respondent had received 30 applications for compassionate appointment when it constituted a committee by an Office Order dated 13.06.2011 to submit recommendations for compassionate appointment. The committee considered the case of eligible candidates on an objective basis on a 100 point evaluation criteria. In the case of the applicant, since he was 32 years old at the time of making application, the committee noted that the applicant was beyond the upper age limit at the time and accordingly did not find his case suitable for evaluation.

6. I have considered the facts of the case and the pleadings. It is not in dispute that the matter was considered previously in the OA 280/2015 and the respondents were directed by order dated 31.3.2016 to consider the representation made by the applicant's mother dated 21.11.2014 as per rules and pass a speaking order. It was noted that it was for the respondent

authority to consider the age relaxation in exercise of their general powers under the relevant rules and decide whether to grant it or not. The impugned order makes no mention of whether the matter was considered for age relaxation at all and, if so, the reasons why the applicant was not considered deserving to be granted such relaxation.

7. A perusal of the impugned order does not also reveal whether any request was made for compassionate appointment by the applicant between 25.7.2006 when his father died and the representation of his mother dated 21.11.2014. It appears from the order of this Tribunal in OA No. 280/2015 that the applicant and his mother made several representations for compassionate appointment following the death of the applicant's father. It is not clear why the matter of compassionate ground appointment was not considered till 2011.

8. In the above facts and circumstances of the case, it would appear that the impugned order had been passed without due application of mind taking into account the order of the Tribunal in which it was noted that it was for the respondent authority to consider age relaxation in exercise of the competent authority's general power of age relaxation. Such relaxation could have been considered if the applicant had been eligible between the date of death of his father and the date of constitution of the committee i.e. 13.06.2011 and vacancies were available during this time.

9. If the applicant had not made any representation seeking compassionate appointment during the time he was eligible or he had not been granted compassionate appointment for any reason such as adequate

vacancies not being available under 5% quota during that period, the speaking order must record this fact. However, merely stating the when the matter was considered by the relevant committee, the applicant had crossed the upper age limit cannot be regarded as a satisfactory disposal of an otherwise legitimate claim.

10. In view of the above, the impugned order dated 23.5.2016 is set aside. Respondents are directed to pass a fresh speaking order in the light of the facts of the applicant's case. If it is proposed to reject the claim for age relaxation, the order must clearly bring out the reasons therefor. The OA is disposed of accordingly. No costs.