

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 4th day of April Two Thousand And Ninteen

PRESENT:

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

M.A.310/218/2019
in &
OA.310/1508/2018

M. Elumalai,
M/49, S/o. Late G. Mannankatti,
Koil Street, Manakuppam & Post
Via Peria Savalai,
Thirukoilur Taluk,
Villupuram District.

....Applicant in both MA & OA
(By Advocate: M/s. R. Thanjan)

Versus

1. Union of India Rep. by the
Chief Post Master General,
Rajaji Salai, Chennai- 600 001;
2. The Post Master General,
Tamil Nadu Circle,
Mount Road, Chennai- 600 002;
3. The Superintendent,
O/o. the Superintendent of Post Offices,
Viruddhachalam – 606 001
Thirukoilur Taluk, Villupuram District;
4. The Post Master General,
Trichy Division, Trichy- 620 001.

...Respondents in both MA & OA

(By Advocate: Ms. Shakila Anand)

ORAL ORDER

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

MA filed by the applicant seeking restoration of the OA by setting aside the order dated 07.01.2019 is allowed.

2. Applicants have filed this OA seeking the following relief:-

“quash the impugned rejected order of the 3rd respondent dated 13.4.2018 vide Ref.No.B3/51 dated at Viruddachalam- 606 001 and direct the respondents to consider for continuity of service by taking into account of the earlier service period from 05.10.2010 to 31.10.2011 of the applicant.”

3. It is submitted that the applicant sought compassionate appointment under the respondents consequent upon the demise of his father in harness on 04.10.2010. He was engaged immediately on a vacant post with effect from 5.10.2010 till 31.10.2011 when his services were terminated. On a representation made by the applicant, his case was considered for compassionate appointment but he was not granted the same on account of his marital status.

4. The applicant filed O.A. 1118/2015 which was disposed of by this Tribunal by an order dated 3.6.2016 in which it was observed that as per the relevant OM of DOP&T dated 25.2.2015, marriage of a dependent son was not a bar for being considered for compassionate appointment and the respondents were accordingly directed to reconsider the applicant's case in accordance with law and pass a reasoned and speaking order. Thereafter, the applicant

was informed of his provisional selection for engagement on the post of GDS (Mail Carrier) or Mail Carrier by a letter dated 10.10.2016.

5. The applicant joined service on 26.10.2016 which according to him was a reinstatement into service. The applicant made a representation dated 27.3.2018 seeking continuity of service from the date of his termination with consequential monetary and other benefits which was rejected by the impugned communication dated 13.4.2018. Aggrieved by the rejection of his representation, he is before this Tribunal again.

6. Learned counsel for the applicant would submit that when the applicant was entitled to compassionate appointment, he ought not to have been terminated from service in the first place. As such, his re-appointment must be viewed as an admission of violation of the relevant rules. As the break in service had occurred for no fault of the applicant, he is entitled to continuity of service, it is urged.

7. Learned counsel for the respondents, however, points out that the applicant had not been granted any compassionate appointment as such. As per the instructions in vogue at the time on the death of the GDS, to enable the family to tide over the sudden crisis and relieve them from financial destitution, the applicant was engaged for a period of one year only on a vacant post on 5.10.2010 to 31.10.2011. On completion of one year, he was relieved.

8. Learned counsel for the respondent would further submit that it is not correct to say that the termination of the services of the applicant was violative of the relevant rules as the appointment itself was granted only for a period of one year. Further the applicant's request for compassionate appointment had been rejected in terms of the then prevailing rules/instructions to the effect that a married son would not be considered dependent or the bread winner of the family. After the relevant provision was amended by OM dated 25.2.2015 of the DOPT, the applicant's request for compassionate appointment was considered and he was granted appointment through Annexure-2 communication dated 10.10.2016. As such, the question of granting continuity in service would not arise, it is contended.

9. I have considered the facts of the case and submissions of the rival counsel. It is not in dispute that the applicant was not granted compassionate appointment straightaway on the death of his father. It is not as if a regular appointment was granted and the applicant was terminated without assigning any reason as claimed by him. On the other hand, the applicant's case for compassionate appointment had been turned down on the ground that he was married and appointment of a married son of a deceased employee was not permissible as per the prevailing instructions. After the relevant provisions were amended, the applicant had approached the Tribunal in O.A. 1118/2015 which was disposed by an order dated 3.6.2016 directing the respondents to reconsider the applicant's case in

accordance with law and pass a reasoned and speaking order. The applicant came to be granted compassionate appointment thereafter.

10. The applicant has not produced any evidence to the effect that he had been granted regular appointment on compassionate basis with effect from 5.10.2010 and he was terminated in violation of the due process. As a matter of fact, the applicant has not even attached a copy of the order engaging him on a vacant post with effect from 5.10.2010. In such circumstances, there is no reason to disbelieve the respondents' statement in the impugned communication dated 13.4.2018 that his engagement at that time was only to tide over the sudden crisis immediately after the death of his father to save family from destitution and was for a period of one year only. When the engagement itself was for one year only at the expiry of which it ceased, it is not correct to say that the services of the applicant was 'terminated'.

11. In view of the above, the OA is devoid of merits and is liable to be dismissed. However, although the applicant cannot be granted continuity of service with monetary benefits as claimed by him, the respondents may examine whether the service rendered during the period from 5.10.2010 to 31.10.2011 could be counted as qualifying service for terminal and other benefits where the length of qualifying service is one of the material criteria.

12. OA is disposed of as above. No costs.

(R. RAMANUJAM)
MEMBER (A)