

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

DATED THIS THE 28th DAY OF JUNE, TWO THOUSAND NINETEEN

PRESENT:

THE HON'BLE MR. T. JACOB, MEMBER (A)

OA/310/01024/2016

S.K.Babu,
S/o. (late) S.Krishnamoorthy,
No. 4/45, West Street,
Thirunaraiyur,
Nachiarkoil Street,
Tanjavur District,
PIN - 612 602

....Applicant

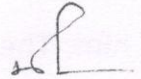
By Advocate : M/s R.Malaichamy

Vs

1. Union of India
Rep. by the Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai
2. The Postmaster General,
Central Region (TN),
Tiruchirapalli - 620 001.
3. The Superintendent of Post Offices,
Nagapattinam Division,
Nagapattinam - 611 001.

...Respondents

By Advocate : Mr. M. Kishore Kumar



ORDER

(Pronounced by Hon'ble Mr. T. JACOB, Member (A))

This OA has been filed by the applicant seeking the following reliefs:-

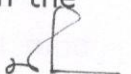
- (i) To call for the records of the Ist Respondent pertaining to his order which is made in No.REP/31-500/OA.1972/12V dated 28.03.2016 in so far as denying to recognize the service of the Applicant w.e.f. 19.07.1999 and set aside the same, consequent to,
- (ii) direct the Respondents to regularize the service of the Applicant w.e.f. 19.07.1999 instead of 11.11.2009 at par with other RRR candidtes and to grant all the service benefits to him..."

2. The brief facts of the case are that the applicant's father S.Krishnamoorthy, BCR PA SBCO, Melakaveri, Kumbakonam Division died on 03.04.1998 while in service. On considering the penurious condition, the name of the applicant was approved for appointment in P.A. Cadre on compassionate grounds by the first respondent vide letter dted 15.7.1999. The applicant was directed to undergo Rudimentary Training for a period of 15 days from 19.07.1999 to 02.08.1999 at Kumbakonam H.O., by the third respondent vide Memo dated 15.07.1999. Thereafter he was sent for training in PTC, Madurai and for other trainings by the competent authority and he successfully completed all trainings given to him. The claim of the applicant is that the service of the similarly placed persons were regularised from the date of entry into service as a trainee whereas he was regularised w.e.f. 11.11.2009 and his request for regularisation of his services from the date of entry into service as a



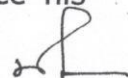
trainee w.e.f. 19.07.1999 was rejected by the respondents vide order dated 28.03.2016 stating that his name was removed from regularisation list earlier due to some allegations against him. He was however, paid arrears of salary for the period from 01.07.2008 to 31.01.2011 under acquittance Roll No.453 dated 10.02.2011, which is an evidence that he was working during such period and his name was not removed as alleged. Hence the applicant has filed this OA seeking the above reliefs on the following among other grounds:-

- (a) The applicant is entitled for regularization of his services from the date of his initial appointment on 19.07.1999.
- (b) The applicant successfully completed all the trainings given to him. As per the DoP&T instructions, the applicant is deemed to be a permanent employee of the Department w.e.f. 19.07.1999 instead of 11.11.2009.
- (c) Most of the applicants in OA.1072/2012 worked only for certain period. Some of them did not work against leave places years together but they were regularised from the date of their initial appointment. Hence it amounts to violation of Art.14 & 16 of the Constitution of India.
- (d) The arrears of pay and allowances paid to him for the period from 01.07.2008 to 31.01.2011 under acquittance roll No.453 is the evidence that the applicant was given chances to work in the



leave places as like other RRR candidtes. From this, it is evident that the name of the applicant was not removed from the approved list as alleged by the Ist respondent in his order dated 28.03.2016.

3. Per contra the respondents have filed a detailed reply statement in which it is stated that the applicant was considered for appointment in the cadre of Postal Assistant and his case was approved by the first respondent vide letter dated 15.7.1999. However, there was no vacancy for absorption at the relevant time. His name was included in the list of approved RRR candidates and he was found in excess among the approved waitlisted candidates. He was imparted prescribed training and mandatory rudimentary training at the Postal Training Centre, Madurai for two months from 20.09.1999 followed by practical training at one of the sub post offices in Kumbakonam Division for 15 days. The service of the applicant was utilized in short term/leave vacancies as Short Duty P.A.(Outsider) during the period from 2000 to 2005 as there was no clear vacancy for absorbing him. Further, the applicant was arrested in a criminal case and was implicated under various sections in Cr.P.C., and IPC and a case was registered. Also while he was engaged on duty, a case was registered for non-credit of amount of postage received across the counter under MPCM receipt. Since the applicant's integrity was not beyond doubt, he was not engaged after 2005. The applicant's attitude both inside and outside the office was not satisfactory and hence his



name was removed from the list of approved RRR candidates by the second respondent vide letter dated 28.07.2008. And the deletion of the applicant's name from the approved list of RRR candidate by the Competent authority w.e.f 29-07-2008 was intimated to the applicant vide memo no B1/PF/SKB dt 29-07-2008 of SPOs Kumbakonam dn. However, at the discretion of the competent authority and purely on humanitarian grounds, though the applicant was imparted training long back, his case was considered by the respondents and was given duty w.e.f. 11.11.2009 treating his case as a fresh one and DA arrears was paid to him for the period from 11.11.2009 to 31.01.2011 amounting to Rs.37,364/- under acquittance roll No.453. Hence the respondents pray for dismissal of the OA.

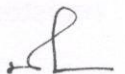
4. The respondents also relied on the following citations in support of their submission.

i. Judgement in the case of Gulzar Ahmad Mir v. State of J&K 2000 SIJ 297 the Hon'ble High Court Jammu & Kashmir.

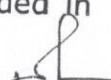
ii. The decision of the Hon'ble Supreme Court Haryana State Electricity Board Vs Krishna Devi.

iii. The order of the Hon'ble Supreme Court in the case of Bhawani Prasad Sonkar Vs Union of India & ors.. (2011) 4 SCC 209.

5. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.



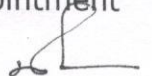
6. Admittedly after death of his father in harness, the case of the applicant was approved for appointment on compassionate ground in the cadre of Postal Assistant by the Circle Relaxation Committee under the Chairmanship of the 1st Respondent. He was sent for rudimentary training for 15 days from 19.07.1999 and after successful training, was imparted induction training from 20.09.1999 for two months and two weeks. He also completed practical training for 15 days as per Memo dated 16.11.1999. The applicant worked only in leave vacancies. Since there was no clear vacancy for absorption in the cadre of Postal Assistant at that time, his case was included in the list of approved RRR candidates. He was found to be in excess of the approved wait listed candidates. The applicant worked at Kumbakonam, Koradacherry, Kodakasal and Nannialam Post Offices. He sought regularisation of his services with effect from 19.07.1999 ie., the date on which the RRR candidates in OA.1072/2012 had been approved for rudimentary training. He was regularised only w.e.f. 11.11.2009 as he was arrested on criminal charges and a criminal case was registered against him under Cr.PC/FIR No.148/05 dated 01.06.2006 under Sec.341, 294(b), 324, 323 and 506(ii) IPC and FIR No. 17/2001 dated 18.01.2001 under Sec.294(b). At the time when the case was pending, another case was registered against him for non-credit of amount of postage received across the counter under MPCM receipt. The said police case ended in



acquittal in Criminal Appeal No.14/2014 in the 1st part and the case regarding 2nd part, it was modified and ordered payment of fine of Rs.1000/- by a Judgement dated 18.11.2014. Since there was no integrity on the part of the applicant, he was not engaged after 2005. The applicant's attitude both inside and outside the office was found to be unsatisfactory and his name was rightly removed from the list of approved RRR candidates by the second respondent vide letter dated 28.7.2008 and the deletion of the applicant's name from the approved list of RRR candidate by the Competent authority w.e.f 29-07-2008 was intimated to the applicant. As per rules on the subject, any appointment can be made only if the character and antecedents are unblemished and good. In the instant case since the applicant's character and antecedents became questionable, his name was removed from the select list. However, at the discretion of the competent authority and purely on humanitarian grounds, though the applicant was imparted training long back and removed from service on the ground of moral turpitude. his case was considered by the respondents sympathetically and given duty w.e.f. 11.11.2009 treating his case as a fresh one.

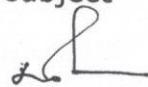
7. The Hon'ble Supreme Court while dealing with a similar case reported as Haryana State Electricity Board V. Krishna Devi has observed that:

"It is well settled that employment on compassionate ground is given only on pure humanitarian consideration and no appointment



can be claimed as a matter of right. The main object was to provide immediate financial help to the family of the deceased employee. It is also well settled that employment under compassionate ground cannot be made in absence of rules or instructions issued by the Government or any public authority."

8. It is well settled legal proposition that employment on compassionate ground is given only on pure humanitarian consideration and no appointment can be claimed as a matter of right. The main object of the Scheme of compassionate appointment is to provide immediate financial help to the family of the deceased employee. It is also well settled that employment under compassionate ground cannot be made in absence of rules or instructions issued by the Government or any public authority. It is purely within the discretionary domain of the executive authority. The scope of interference of this Tribunal in such matters is limited unless the appointment has been made dehors the rules to accommodate somebody ignoring the claim of the applicant whose family was found to be more indigent.
9. The claim is for regularisation from 1999 onwards whereas the applicant has not been absorbed in regular vacancies. For regularization, there must be a sanctioned post and the individual should have been appointed against the said regular post. When there was no vacancy, the respondents cannot be blamed for non regularization. Apart from this, any appointment shall be subject



to clearance by Police after verification. This part also has not been fully complied in this case. When there has been no employment of the applicant from 2005 onwards, regularisation of his services from 1999 is out of question. No case has therefore been made out by the applicant for regularization from 1999 onwards. Here the applicant was removed from service as his character and antecedents were not found to be good. As per rules, the applicant can be removed from service anytime owing to the act of moral turpitude. The applicant cannot compare himself with other candidates and seek regularisation of his services from the date the other candidates have been so regularised. Because of break in service, the applicant could not be regularised from the date of training. As such, I do not find any illegality or infirmity in the impugned order of the respondents regularising the service of the applicant w.e.f. 11.11.2009 instead of 19.07.1999.

10. The applicant has relied upon various orders which altogether deals with different facts and circumstances and hence not applicable to the facts of the present case.

11. In view of the above, the OA is liable to be dismissed and is accordingly dismissed being devoid of merit. No costs.