

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 973 of 2015

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

1. Golak Bihari Panigrahi, aged about 69 years, S/O-Late Batakrushan Nayak, EX-GDSMD-cum-MC, Rahadinga Branch Post Office, a permanent resident of Vill/PO-Jaipur, Via-Tarapur, Dist-Jagatsinghpur.
2. Sachidananda Panigrahi, aged about 37 years, Son of Golak Bihari Panigrahi, Vill/PO-Jaipur, Via-Tarapur, Dist-Jagatsinghpur.

.....Applicants

VERSUS

1. Secretary-cum-Director General,(Posts) Dak Bhawan, New Delhi-110001.
2. Chief PMG, Odisha Circle, At-Bhubaneswar Post-Bhubaneswar GPO-751001, Dist-Khurda.
3. Superintendent of Post Offices, Cuttack South Division, At/PO/Dist-Cuttack-753001.

.....Respondents

For the Applicant : Mr. T. Rath, Ld. Counsel.

For the Respondents: Mr. D. K. Mallick, Ld. Counsel.

Heard & reserved on : 24.09.2019

Order On: 16.10.2019

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

“(a) To quash the orders under Annexure-A/8 and A/9.

(b) To direct the Respondents to consider the indigent condition of the family in a legalistic manner and extend the Rehabilitation assistance in favour of the applicant no.2 in any GDS post befitting to his qualification.

(c) And Pass appropriate orders as may be deemed fit and proper in the facts and circumstances of the case and allow the OA with cost.”

2. The applicant No.1, who is the father of the applicant no.2, while working as a Gramin Dak Sevak (in short GDS) had approached the authorities for premature retirement on health ground due to his illness, since he was unable to perform day to day duties as GDS. It is stated in the OA that the Medical Board after examination of the applicant, treated the applicant no.1 as

medically incapacitated and on the recommendation, he was retired from the service vide order dated 2.6.2009 (Annexure-A/2) on medical ground. Since the salary of the applicant no. 1 was the only source of livelihood of the family, after retirement of the applicant no. 1, the family faced with a sudden distress condition. In addition, the cost incurred for the treatment of the applicant no. 1 was an additional burden. Therefore, the applicant no. 2 applied for consideration of his case for compassionate appointment vide the application dated 27.6.2009 (Annexure-A/3 series).

3. Since no action was taken by the respondents, the applicants filed the OA No. 875/2013 which was disposed of vide order dated 19.12.2013 (Annexure-A/4) with a direction to the respondent no. 2 to dispose of the representation dated 27.2.2013 in this regard. The respondent no. 2 has passed the order dated 10.1.2014 (Annexure-A/5) rejecting the applicant's case for compassionate appointment on the ground that he had scored 31 points and the applicant no. 2 being the married son, was not entitled for the benefit of compassionate appointment. The applicant filed another OA No. 506/2014, challenging the order dated 10.1.2014. The said OA was disposed of vide order dated 6.2.2015 (Annexure-A/6) quashing the order dated 10.1.2014 and directing the respondents to consider the case of the applicant in the light of the circular dated 21.2.2012 (Annexure-A/10).

4. Thereafter, the respondent no.2 passed the order dated 7.5.2015 (Annexure-A/7), decided to place the case before the Circle Relaxation Committee (in short CRC). The matter was considered by the CRC which did not recommend the case due to score of 31 points and the family's condition was not found indigent. Accordingly, the order dated 10.6.2015 (Annexure-A/8) was passed by the respondents rejecting the case of the applicant no.2.

5. The grounds advanced in the OA are that the case has been considered by applying the point system disregarding the Tribunal's order dated 6.2.2015 and that the point system is not applicable for medical invalidation case. As per the para 2 of the circular dated 21.2.2012, the cases where an invalidated GDS has been discharged prior to 14.2.2010, the case for compassionate appointment is to be considered taking into account the indigent condition of the family as per the guidelines in force at the time of discharge on the ground of invalidation. It is further stated that the liability and indigent condition of the family has not been assessed properly. The family has only Ac 0.05 agricultural land with annual income of about Rs. 2000/-, where as the monthly medicine expenses of the applicant no.1 was about Rs. 2000/- per month. However, no document has been furnished in support of the above contentions.

6. The Counter filed by the respondents stated that the case of the applicant no.2 was considered by the CRC as per the circular dated 14.12.2010 and 9.3.2012 regarding the system of allocation of points to various attributes on a 100 point scale and the circular dated 1.8.2011 and 13.4.2012 on hard and deserving cases. It is stated that the applicant no.2 could secure only 31 marks, for which, his case was not considered to be hard and deserving with score of above 50 points. The case was also considered by the CRC on 9.6.2015 as per the direction of the Tribunal by applying the circular dated 21.2.2012 (Annexure-A/10) and it has been rejected Vide order dated 10.6.2015(Annexure-A/8) and order dated 16.10.2015 of the respondent No.2 (Annexure-A/9).

7. Heard learned counsel for the applicant. who submitted that as per the income certificate of the applicants enclosed with the application for compassionate appointment at Annexure-A/3, the total income of both the applicant excluding the income from the postal department as GDS which was stopped after premature retirement of the applicant no.1, was Rs. 15000/- and it also shows the income of Rs. 4000/- from the agricultural land which was negligible. The reasons mentioned in the order dated 10.6.2015 (Annexure-A/8) for rejecting the case are that the family has income from agricultural land and the condition was not found to be indigent and these reasons are not sustainable in view of the income certificates furnished by the applicant no.2. It was also submitted that for medical treatment of the applicant no.1, the family requires more funds and that the family is facing a serious financial distress.

8. Learned counsel for the respondents was heard. He submitted that the case of the applicant no. 1 was not medical invalidation, but it was voluntary retirement on medical ground. It was further submitted that the case was rightly considered as per the prevalent merit point system under which the case of the applicant was not found to be a deserving case.

9. Having regard to the pleadings as well as the submissions by both the parties, it is noticed that the applicant has objected to the application of the point system and has raised the ground in the OA that his case has not been considered as per the order dated 6.2.2015 (Annexure-A/6) of the Tribunal in OA No. 506/2014. The order dated 6.2.2015 directed the respondents to consider the case of the applicant in the light of the circular dated 21.2.2012 (A/10) as per its merit.

10. The para 2 of the circular dated 21.2.2012 (A/10) stated as under:-

“ 2. The issue of allowing compassionate engagements to one of the dependent of the GDS discharged on invalidation on medical

grounds supported by the invalidation proof has been considered in the Directorate and it has now been decided to allow considering compassionate engagement to one of the wards of invalidated GDS discharged before the date of issue of this Directorate letter No. 17-17/2010-GDS dated 14.12.2010 on consideration of the indigent condition of the family taking recourse to the application of the same provisions of compassionate engagement and process as were in force at the time of discharge of the GDS on invalidation, without further reference to this Directorate.”

11. In this OA, the respondents have stated in the Counter (para 3) that the applicant no.1 “retired from service voluntarily on medical ground with effect from 06.06.2009.” Learned counsel for the respondents at the time of hearing had stated that the case of the applicant no.1 was not medical invalidation as it was voluntary retirement. Such argument is not acceptable since the medical certificate at Annexure-A/1 clearly states that the applicant was found by the medical board to be permanently incapacitated and the Inspector of Post Offices, Kujanga vide his order dated 2.6.2009 (Annexure-A/2) stated that the premature retirement was on the ground of invalidation. Further, no ground of ineligibility of the applicant on the ground of voluntary retirement on invalidation ground has been mentioned in the impugned order or in the pleadings of the respondents.

12. It is noticed from the impugned order dated 10.6.2015 (Annexure-A/8) and the order dated 16.10.2015 (Annexure-A/9) that the grounds for rejecting the case of the applicant no.2 as mentioned in the said orders are that as on the date of discharge of the applicant no.1, both of the applicant no.1’s daughters and sons were married and there were no liabilities for education or marriage of dependents. Another ground mentioned was that the family has income from agricultural land and the condition of the family was not found indigent. It is noticed that no ground regarding the point score of the applicant no.2 has been mentioned in the impugned orders.

13. It is seen that the respondents have concluded that the family’s condition was not indigent as all the daughters and sons of the applicant no. 1 were married as on the date of his discharge on invalidation ground. The applicant no.2 has cited the income certificate to argue that his family condition has not been properly assessed by the respondents. It is stated that the income of the family is not sufficient to meet the treatment cost of the applicant no.1. It is also stated that the family has incurred loans for treatment of the applicant no.1. No evidence has been produced to show the loan liability or the treatment expenses of the applicant no.1. While considering the case for compassionate engagement, the CRC and the respondents have to assess the indigent condition of the family and based on the information on record, the respondents have found the condition of the applicants’ family not indigent. Nothing has been produced by the applicant, except the income certificate, to

show that such conclusion of the respondents was incorrect. There is no other document except the income certificate to show that the conclusion of the respondents regarding the family's indigent condition was incorrect.

14. The ground mentioned in the OA that the respondents have applied point system in violation of the Tribunal's order dated 6.2.2015, is not correct as the impugned orders do not refer to the point system at all. The applicant has averred in the OA that the family's condition has not been assessed correctly. But no evidence has been adduced in support of such contention as discussed earlier.

15. In view of the above discussions, I am of the view that the grounds furnished by the applicant do not justify any interference of this Tribunal in the matter. Accordingly, the OA, being devoid of merit, is dismissed with no order as to costs.

GOKUL CHANDRA PATI
MEMBER (A)

I.Nath