

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/642/2018

Date of Order: 11.07.2019

Between:

T. Madhu Babu - Group 'C'
S/o Late Ayyalanna, aged about 30 years
Occupation casual labour,
r/o H.No.17-44, New Plots
Alampur Post & Mandal,
Jogulamba Gadval Dist. Applicant

AND

Union of India, rep. by

1. The Secretary to Government of India,
Department of Archaeological Survey of India
Janpath, New Delhi 1.
2. Director General Coast Department of
Archaeological Survey of India, Janpath,
New Delhi – 1.
3. The Superintending Archaeologist,
Archaeological Survey of India,
Hyderabad Circle, Hyderabad. Respondents

Counsel for the Applicant ... Mr. K. Siva Reddy.

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. OA has been filed for not considering the applicant for compassionate appointment.
3. Applicant's father, while working for the respondents organisation, has died in harness on 10.2.2007 leaving behind wife, 2 Daughters and the Son. Applicant thereafter applied for compassionate appointment for a suitable post which was rejected, on the sole ground that the request is belated, on 16.6.2016. The rejection order was contested in OA

No.944/2016, wherein it was directed to reconsider the case of the applicant without attributing the delay to the applicant. Accordingly, it was reconsidered and rejected on 16.4.2018. Aggrieved, OA is filed.

4. The contentions of the applicant are that deceased employee's family has no house to live and had loan of Rs.2 lakhs, taken during the life time of his father, has to be cleared by him. Family is living in indigent circumstances. Compassionate appointment has to be offered as per rules and law. The impugned order is not a speaking or a reasoned order.

5. Respondents were given sufficient opportunities to file the reply statement over the last one year. However, they have not availed the same. In the interest of justice, in order not to delay a decision on the issue further, matter was heard.

6. Heard both the counsel and perused the records as well as the material papers placed on record.

7. I) Initially, the request of the applicant was rejected on grounds that the application for compassionate appointment was made belatedly. However, this Tribunal in OA 944/2016 considering the facts submitted by either side has directed to reconsider the case. Respondents did comply with the order by rejecting the request of the applicant by issuing the impugned order. On perusal, the impugned order is neither a speaking or a reasoned order. A speaking order has to delve on the 4 Cs, namely, context, contention, consideration and conclusion. The impugned order does not state the criteria for selection, the basis for preparing the merit list, the number of posts available, marks allotted, if any, to assess indigent circumstances, etc. An order which is not a reasoned order is invalid in the eyes of law as observed by the Hon'ble High Court of Jharkhand in Jit Lal

Ray v. State of Jharkhand, WP(C) No. 469 of 2019, decided on 26-04-2019 as under:

“It is settled position of law that a decision without any reason will be said to be not sustainable in the eyes of law, because the order in absence of any reason, also amounts to the violation of the principles of natural justice.”

II) Besides, the consequences which arise by not issuing a speaking order have been elaborated, by the Hon’ble Apex Court, as under:

“The following observations by the Apex Court in the case of Markand C. Gandhi Vs. Rohini M. Dandekar Civil Appeal No. 4168 of 2008 Decided On: 17.07.2008 highlights the inadequacy of non-speaking orders:

5. From a bare perusal of the order, it would appear that, virtually, there is no discussion of oral or documentary evidence adduced by the parties. The Committee has not recorded any reason whatsoever for accepting or rejecting the evidence adduced on behalf of the parties and recorded finding in relation to the misconduct by a rule of thumb and not rule of law. Such an order is not expected from a Committee constituted by a statutory body like B.C.I.

6. We are clearly of the opinion that the finding in relation to misconduct being in colossal ignorance of the doctrine of *audi alteram partem* is arbitrary and consequently in infraction of the principle enshrined in Article 14 of the Constitution of India, which make the order wholly unwarranted and liable to be set aside. This case is a glaring example of complete betrayal of confidence reposed by the Legislature in such a body consisting exclusively of the members of legal profession which is considered to be one of the most noble profession if not the most.”

Therefore, from the observations of the superior judicial forums it is evident that the impudent order issued by the respondents lacks the essence of a reasoned and a speaking order.

III) Thus, the action of the respondents in rejecting the request of the applicant is arbitrary and illegal. Hence, the impugned order dated 16.4.2018 is quashed. Consequently, respondents are directed to reconsider the case of the applicant for compassionate appointment as per the extant rules and regulations of the respondents organisation and issue a speaking as well a reasoned order within a period of 3 months from the date of receipt of this order. There shall be no order as to costs.

IV) With the above directions the OA is allowed.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 11th day of July, 2019

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