

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

Original Application No.20/798/2019

Date of Order: 06.09.2019

Between:

E. Srinivas, S/o. Late Sri E. Subba Rao,
Aged 29 years, Occ: Un-employee,
R/o. H. No. 4-39, Gavidipeta,
Buddavaram Post, Gannavaram,
Krishna District.

... Applicant

And

1. The Union of India, Rep. by its Secretary,
Ministry of Communication & Information Technology,
Department of Posts – India, Dak Bhavan,
Sansad Marg, New Delhi – 110 001.
2. The Director General of Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi.
3. The Chief Postmaster General,
A.P. Circle, Vijayawada – 500 001.
4. The Superintendent of Post Offices,
Vijayawada Division, Vijayawada.

... Respondents

Counsel for the Applicant ... Mr. G. Jaya Prakash Babu

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

CORAM:

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

ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for rejecting the request of the applicant for compassionate appointment.

3. Brief facts of the case are that the applicant's father has died while working as Grameen Dak Sewak in the respondents organisation. Applicant submitted an application for compassionate appointment on 5.9.2008 which was rejected on 25.05.2012. Being aggrieved, applicant filed OA No. 976/2012, which was disposed of by this Tribunal directing the respondents to reconsider the claim of the applicant for compassionate appointment. Pursuant thereto, the respondents passed the impugned order dated 2.7.2014 stating that the applicant secured less than 51 points. Aggrieved, OA has been filed.

4. The contentions of the applicant are that as per DOPT OM's dated 26.7.2012 and 16.1.2013 there is no time limit for considering compassionate appointment and that a decision has to be taken on merits. The case of the applicant has to be considered as per the guidelines issued by the respondents in regard to compassionate appointment on 17.12.2015. Applicant cited decision of this Tribunal in OA 1140/2016 in support of his contentions.

5. Heard both the counsel and perused the pleadings.

6. I) Applicant's request for compassionate appointment was initially rejected on 10.5.2012 for having secured 48 points against the

minimum of 51 required to be selected on compassionate grounds. The same was challenged in OA 976/2012 which was disposed and as directed by the Tribunal, the respondents re-examined the issue and issued an order dated 2.7.2014. The relevant para of the letter is extracted as under:

“As per orders of Hon’ble CAT, case was reconsidered with the following outcome:

(a) Applicant got 48 points against the minimum 51 points as prescribed by the Directorate vide Lr. No. 17-17/2010-GDS on 14.12.2010 & 09.03.2012 & 13.04.2012 & 09.10.2013 to be eligible for compassionate appointment for GDS post.

(b) As per the observations of the Hon’ble CAT, Hyderabad in its order cited above, the details of marks secured by the applicant and also marks under each head is furnished vide Annexure.”

In the said letter, details of marks scored by the applicant have been indicated but not of those who have been considered along with the applicant. Such details, if furnished, would make the selection objective and transparent and would give no room for grievances to germinate. Respondents maintain a website, by name India Post.Gov.In in which, if full details of selection of all the candidates are displayed and the same fact is communicated to the applicants for their information, unnecessary litigation can be avoided. We are in the era of information dissemination and RTI Act calls upon the respondents to *suo motu* display such information. Respondents may examine the suggestion for implementation depending on the circumstances prevailing in the respondents I.T. environment.

(II) Reverting to the issue on hand, by not furnishing the required information, the order dated 2.7.2014 cannot be called a reasoned order. Reasons substitute subjectivity by objectivity. Applicant need to know as to why he was rejected in comparison with others. We are in a competitive world and particularly, in regard to employment respondents need to make things as transparent as possible. Hon'ble Supreme Court has made very insightful observations in regard to a reasoned order in ***Vishnu Dev Sharma v. State of U.P., (2008) 3 SCC 172: (2008) 1 SCC (L&S) 596 at page 173***, as under, which need to be abided by scrupulously.

"12. Even in respect of administrative orders Lord Denning, M.R. in Breen v. Amalgamated Engg. Union [(1971) 2 QB 175 : (1971) 2 WLR 742 : (1971) 1 All ER 1148 (CA)] observed: (All ER p. 1154h) 'The giving of reasons is one of the fundamentals of good administration.' In Alexander Machinery (Dudley) Ltd. v. Crabtree [1974 ICR 120 (NIRC)] it was observed: 'Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.' Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the 'inscrutable face of the sphinx', it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The 'inscrutable face of the sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance." [Ed.: As observed in Cyril Lasrado v. Juliana Maria Lasrado, (2004) 7 SCC 431 at p. 436, paras 11-12.]"

Learned counsel for the applicant pleaded to dispose of the OA in view of the facts stated therein, which was agreed to by the Ld. Senior Standing Counsel for the respondents.

Therefore, in the aforesaid circumstances, the respondents are directed to treat the OA as a representation of the applicant and dispose

of the same keeping the order of the Tribunal in OA cited supra as well DOPT OMs referred to, in view, as per the rules and regulations governing compassionate appointment, within a period of 8 weeks from date of receipt of the order, by issuing a speaking and well reasoned order.

III) With the above directions, OA is disposed of, at the admission stage, with no order as to costs.

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

Dated, the 6th day of September, 2019

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