

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

Original Application No.20/101/2018

Date of Order: 27.06.2019

Between:

G. Sandeep Kumar, S/o. late G. Satyanarayana, Gr.D,
Aged about 30 years, H. No. 16-82,
MDO Office Road, Kankipadu, Krishna District.

... Applicant

And

1. Union of India, Rep. by Secretary,
Ministry of Communications and I.T.,
New Delhi – 110 001.
2. The Chief Postmaster General,
A.P. Circle, Vijayawada – 520 003.
3. The Sr. Supdt. of Railway Mail Service,
'Y' Division, Vijayawada, Krishna District.

... Respondents

Counsel for the Applicant ... Mr.M. Venkanna

Counsel for the Respondents ... Mrs. D. Shoba Rani, Addl. CGSC

CORAM:

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

ORAL ORDER

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

3. Applicant's father died in harness while working as Mail Man in the respondents' organisation on 19.3.2002. Applicant's mother represented to consider her son for compassionate appointment for any eligible post. It was rejected on 24.6.2002 stating that the son was a

minor. On becoming a major and acquiring 10+2 qualification, respondents considered him for the post of Postman and rejected on grounds of relative merit and lack of vacancies on 20.2.2006. Further, he was also informed that he will be further considered on two more occasions in the subsequent years. However, as no action was taken as promised, OA 742/2012 was filed and as per orders of the Tribunal, the request of the applicant was re-examined and rejected. Hence, the OA.

4. The contentions of the applicant are that the terminal benefits received were used to repay the loans taken to meet the medical expenses of the deceased employee. Applicant is living in indigent circumstances and has a large family to support. Similarly situated employees have been considered.

5. Respondents state in the reply statement that the request of the applicant could not be considered based on relative merit and lack of vacancies. Applicant on approaching Tribunal in cited OA 742/2012, it was re-examined and found not to be fit for reconsideration. Respondents claim that there was a time gap of more than 3 years in filing the present OA after the disposal of 742/2012 vide order dt.05.06.2014 and it is barred by limitation. Respondents cited the judgments of the Hon'ble Supreme Court in *Cicily Kallarackal v Vehicle Factory*, reported in (2012) 8 (SCC) 524 and in *Brijesh Kumar & ors v State of Haryana & ors*, reported in 2014 (13) SCC 291 in regard to application of the clause of limitation. Besides, Hon Supreme Court verdicts in *Umesh Kumar Nagpal v State of Haryana and other* (JT 1994 (3) SC 525), *HAL v A.Radhika Thirumalai*, (1996) 6 SCC 394 were also cited to make the

assertion that the compassionate appointment cannot be claimed as a matter of right and that rules regarding compassionate appointment have to be followed. Some more Judgments of Hon'ble Supreme Court were quoted in support of their contentions.

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

7. I) The records speak that the mother of the applicant has sought compassionate appointment to her son i.e. the applicant to any eligible post, but the same was rejected on the ground that the applicant was minor. However, on becoming major and acquiring the qualifications of 10+2, his case was considered by the Circle Relaxation Committee to the post of Postman and rejected on grounds of relative merit plus lack of vacancy. On approaching the Tribunal in OA 742 of 2012, it is noticed that the case was rejected by the 2nd respondent vide letter dated 31.7.2014. The competent authority to take a decision is the Circle Relaxation Committee and not the 2nd respondent. Hence an incompetent authority has taken the decision. Hence, the 2nd respondent order dated 31.7.2014 is void ab-initio.

II) Rules framed by the respondents are to be strictly adhered to. Violation of rules has not been taken to kindly by the Hon'ble Supreme Court in the following verdicts:

The Hon'ble Supreme Court in **T.Kannan and ors vs S.K. Nayyar, (1991) 1 SCC 544** held that "*Action in respect of matters covered by rules should be regulated by rules*". Again in **A.N.Sehgal & Others v. Raja Ram Sheoran & Others, 1992 Supp (1) SCC 304**, the Hon'ble Supreme Court has stated that "*Any wanton or deliberate deviation in the implementation of the rules should be curbed and snubbed.*" In another judgment reported in (2007) 7 SCJ 353, the Hon'ble Apex court held that "*the court cannot de-hors rules*"

III) In regard to the averment made by the respondents about limitation, it does not stand to reason once the OA has been admitted. At the stage of admission, respondents need to have raised the objection, which they did not, and hence the submission is not maintainable. Coming to the judgements cited by the respondents, the applicant has a right to be considered and that the rules have to be followed. Unfortunately, respondents have not followed the rule in respect of the applicant by an incompetent authority deciding the case. Other judgments cited are not relevant as the facts and circumstances are different in the present case.

IV) It needs also to be observed that the applicant sought appointment to any eligible post. Respondents have not given reasons as to why they could not consider the case of the applicant for Grameen Dak Sewak though he has the requisite qualifications.

V) Hence, from the above it is clear that the action of the respondents is against rules and arbitrary. Therefore, the impugned order dated 31.07.2014 is quashed. Consequently, respondents are directed to reconsider the case of the applicant for any post, departmental or extra departmental, for which he is eligible, by placing it before the appropriate Committee. Time allowed is 3 months from the date of receipt of this order. No order as to costs.

VI) With the above directions the OA is allowed.

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

Dated, the 27th day of June, 2019

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