

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

Original Application No.179/2015

Date of C.A.V. : 20.07.2018

Date of Order : 16 .11.2018

Between :

Sri Mohd. Farooq Ahmed,
S/o Late Habeeb Ahmed,
(Ex.HSG PA, Hyderabad GPO,
Hyderabad City Division),
R/o 20.03.886, Shahgunj,
Hyderabad – 500 002.

... Applicant

And

1. Director General (Posts),
Department of Posts, Sansad Marg,
New Delhi – 1.

... Respondents

2. The Chief Postmaster General,
A.P.Circle, Hyderabad – 500 001.

3. The Senior Superintendent of Post Offices,
Hyderabad City Division, Hyderabad – 500 001.

Counsel for the Applicant ...

Mr. K.Sudhakar Reddy, Advocate

Counsel for the Respondents ...

Mr. K.Venkateswarlu, Addl.CGSC

CORAM:

Hon'ble Mr.Justice R.Kantha Rao ...

Member (Judl.)

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

The applicant is the son of late Habeeb Ahmed, who worked as HSG PA in the office of Hyderabad GPO, Hyderabad City Division and died on 15.12.1992 while in service leaving behind him wife, 3 daughters, son and parents. After the death of his father, the applicant submitted an application seeking appointment on compassionate grounds. According to the applicant the 3rd respondent considered his case and sent him a communication vide letter dated 19.03.1998 stating that the Circle Selection Committee (CSC) considered his case for Postal Assistant and informed that the orders of appointment would be issued as and when vacancies available. He further submits that again he was informed by the respondents by letter dated 27.06.2001 directing him to submit willingness for consideration for recruitment under normal relaxation of rules by other Ministries and sought for his willingness. It is stated that in response thereto he submitted his willingness for considering his case in the other Ministries in relaxation of rules and the respondents also obtained a declaration from the applicant that he would look after the members of the family. He was also directed to submit all the original certificates. The respondents directed him not to make any correspondence in future. He did not make any correspondence and he was waiting for orders of appointment on compassionate grounds. He states that several vacancies of Postal Assistant are available in the department, therefore he filed the present OA in 2015 to declare the inaction of the respondents in not issuing the order of appointment to the post of Postal Assistant as per the

recommendations of the Circle Selection Committee as illegal, arbitrary and consequently direct them to appoint him in the post of Postal Assistant forthwith as per the recommendations of the Circle Selection Committee.

2. In their reply statement the respondents contended as follows :

On the basis of Memorandum issued by the Department of Personnel and Training, New Delhi vide OM dated 24.11.2000 the Respondent No.1 directed to discontinue the maintenance of waiting list of approved candidates for compassionate appointment, if already not discontinued and the Respondent No.2 was asked to take willingness of the candidates whose names are already in the waiting list for appointment on compassionate grounds, but they could not be appointed due to want of vacancies within the limited quota of 5%. The applicant is also one of the candidates whose waiting list was discontinued. Thereafter the applicant was requested to continue his willingness for consideration for recruitment under normal relaxation rules by other Ministries as per rules vide Respondent No.3 letter dated 27.06.2001. In the above circumstances the applicant was asked to intimate his willingness or otherwise to work as Gramin Dak Sevak and choice of station along with declaration vide 3rd respondent letter dated 28.02.2002. But the applicant gave a conditional willingness to work as Gramin Dak Sevak as a temporary measure and requested to continue his candidature in the waiting list for the post of Postal Assistant. Thus according to the respondents the applicant did not submit his willingness in the prescribed proforma. It is further submitted by the respondents that it is unlikely the wait

listed candidates could be offered appointment in the foreseeable future for the above mentioned reasons. The wait list was discontinued as it was not advisable to maintain the waiting list. Thus according to the respondents the candidature of the applicant for appointment as Postal Assistant on compassionate grounds stood cancelled vide order dated 12.09.2002 of the 1st respondent. Contending as above the respondents sought to dismiss the OA.

3. I have heard Mr.K.Sudhakar Reddy, learned counsel for the applicant and Mr.K.Venkateswarlu, learned standing counsel for the respondents.

4. Now the point for consideration is whether a direction can be given to the respondents to consider the case of the applicant for appointment to the post of Postal Assistant on compassionate grounds.

5. The applicant's father died while in service on 15.12.1992. Thereafter the applicant submitted his application for appointment to the post of Postal Assistant on compassionate grounds, the same was considered and his name was kept in the waiting list along with the other candidates. Subsequently the waiting list was discontinued for the reasons mentioned by the respondents in their reply statement that the candidature for appointment of the applicant as Postal Assistant stood cancelled vide order dated 12.09.2002 of the first respondent, consequent upon discontinuing the waiting list.

6. In the present OA the applicant has been specifically claiming appointment for the post of Postal Assistant. In fact the applicant has no vested right for a particular post on compassionate grounds. The applicant mentioned in the OA that since 2001 he did not receive any communication regarding the issue of appointment order on compassionate grounds. He filed the present OA in 2015, thus there is inordinate delay in filing the OA.

7. Same issue fell for consideration before the ***Hon'ble High Court of Punjab & Haryana in the case of Balwinder Kaur Vs. State of Punjab and Others 2018 (5) SLR 343 (Pb.&Hry.)***. The Hon'ble High Court of Punjab and Haryana by following various judgements of the Apex Court on the subject held as follows :

"8. It is well settled position of law as has been held by this Court in various judgments as well as Hon'ble the Apex Court that appointment on compassionate ground cannot be claimed as a matter of right. The object of such appointment is to enable the family to tide over the sudden crises and object is to give employment to any dependent family member by considering the financial condition of the family of the deceased but only on being satisfied that the family is not in a position to meet out the crises which has occurred due to sudden death of the earning member of the family. In case the Government employee is sole bread winner then only it is to be considered. When unexplained delay has occurred, it is presumed that the crises is over. It is also a relevant factor which is to be considered that such appointment cannot be granted after a long lapse of unexplained delay as the very purpose of such appointment is an exception to the general rule of open recruitment and same is intended to meet the financial problem being suffered by the members of the family of

the deceased employee. Not only on the ground that the petitioner is a widow daughter of the deceased, which has been wrongly mentioned as has been clarified in the impugned order, but by considering other factors also including the fact that death had occurred in the year 1993, the claim of the petitioner has been rejected. Earlier also claim of the petitioner was not considered and, thereafter, it was again rejected on 28.06.2016.

9. -----

10. -----

11. *In the present case also, the death has occurred in the year 1993 and petitioner has claimed appointment after a long unexplained delay. Not only there is an inordinate delay in making representation but in approaching the Court also and no satisfactory explanation has come forward. The petitioner remained sitting over her claim for years together and nowhere it has been mentioned as to how the petitioner was dependent upon the earning of the deceased employee."*

8. According to the respondents the applicant's case for appointment to the post of Postal Assistant on compassionate grounds stood cancelled vide order dated 12.09.2002. According to the applicant since 2001 he did not receive any communication from the respondents. In any case the applicant has to approach the Tribunal for redressal of the grievance within a reasonable time. The claim of the applicant is hit by delay and laches and therefore in view of the afore cited judgement, no direction can be issued to the respondents to provide compassionate appointment to the applicant.

9. The OA is therefore dismissed. There shall be no order as to costs.

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

sd