

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA/021/00175/2017

Date of Order : 18-06-2019

Between :

P.Swathi D/o P.Shankaraiah,  
Ex-Mail Man, RMS Z Division,  
Kazipet, Aged about 25 years,  
R/o H.No.25-04-176,  
Vishnupuri, Kazipet,  
Warangal District.

....Applicant

AND

1. The Union of India Rep by its Secretary,  
Ministry of Communications & I.T,  
Department of Posts – India,  
Dak Bhavan, Sansad Marg,  
New Delhi – 110001.

2. The Chief Postmaster General,  
Telangana Circle,  
Dak Sadan, Abids,  
Hyderabad-500001.

3. The Postmaster General,  
Hyderabad Region,  
Hyderabad 500001.

4. The Superintendent,  
R.M.S. 'Z' Division,  
Hyderabad 500001.

...Respondents

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Counsel for the Applicant: Mr.M.Venkanna

Counsel for the Respondents : Mrs.L.Pranathi Reddy, Addl CGSC

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CORAM :

THE HON'BLE MRS.NAINI JAYASEELAN, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mrs.Naini Jayaseelan , Administrative Member)

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Heard Mr.M.Venkanna, learned counsel for the applicant and Mrs.L.Pranathi Reddy, learned Addl Standing Counsel for Respondents.

2. The applicant's father worked as MTS in RMS Z Division at Kazipet. While discharging duties as MTS on the Mail Van from Kazipet to Hyderabad, the DMMS vehicle met with an accident on 21.03.2011, wherein the Driver died on the spot. The MTS who was on escort duty expired on 23.03.2019 due to head injury.

3. The widow of the deceased official submitted a representation dated 16.05.2011 requesting for compassionate appointment to her daughter which was duly recommended for transmission to the Circle Office. However, the Circle Relaxation Committee which met on 29.04.2014 did not recommend the case of the applicant due to non availability of vacancies under 5% Direct Recruitment quota.

3. Aggrieved by the above, the applicant filed OA No.1000/2014 before this Tribunal and the same was disposed of vide order dated 30.09.2016 with the following directions :

"The 2<sup>nd</sup> respondent (Circle office) is directed to reconsider the application to refer the matter to the Circle Relaxation Committee and after getting the report from the Committee, pass appropriate orders. Consideration of applicant's case shall be restricted to 5% of the total

Direct Recruitment vacancies of 2016.”

In compliance of the orders of the CAT, the case of the applicant was reconsidered by the Circle Relaxation Committee for the year 2015-16 but was not recommended since the vacancies were restricted to 5% of the total DR vacancies and also as she did not merit the selection in the relative merit points.

4. Aggrieved by the said order, the applicant has filed the present OA. Therefore it is the second round of litigation. The counsel for the applicant argued that since the applicant's father had not died in harness but had died while performing official duty, the applicant's case is to be considered sympathetically and relied upon the judgment in the case of Balbir Kaur Vs. Steel Authority of India Ltd., (CDJ 2000 SC 335), wherein, in para-7 of the order, it is held as under :

“7. Before, however, embarking on an inquiry in regard thereto it would be convenient to note however the necessary provisions of the NJSC Tripartite Agreement of 1983 as also of 1989. The same are set out herein below :-

“NJCS Agreement, 1983

“Cl.7.16: Employment.

*Employment would be provided to one dependent of workers disabled permanently and those who meet with death. One dependant of the retiring employee would be provided employment, but in case of TISCO, the same would be subject to their Certified Standing Orders.”*

1989 Tripartite Agreement :

Cl.8.10.4 : In case of death due to accident arising out of and in course of employment, employment to one of his/her direct dependants will be provided.

Cl.8.10.5 : A Scheme would be introduced by NJCS for employees who die while in service or who suffer from permanent total disablement to receive monthly payments after the death/permanent total disablement of the employees, in case the widow employees deposit

P.F amount and Gratuity dues with the Company's separate trust constituted for this purpose. When finalised, the Scheme would be effective from 1.1.1989.

Cl.8.14.1 : Benefits provided under the previous NJCS Agreement will continue, unless otherwise specified in this Agreement.

Cl.8.14.2 : Merely as a consequence of the implementation of this Agreement any facility, privilege, amenity, benefit, monetary or otherwise or concession to which an employee might be entitled by way of practice or usage, shall not be withdrawn, reduced or curtailed except to the extent and manner as provided for in this Agreement."

The learned Standing Counsel for the Respondents vehemently argued that, compassionate appointment is not a matter of vested right and quoted the orders in MGB Gramin Bank Vs. Chakrawartti Singh wherein it is reiterated that, "compassionate appointment may *not* be claimed as a matter of right *nor* an applicant becomes entitled automatically for appointment, rather it depends on various other circumstances ie eligibility and financial conditions of the family, etc., the applicant has to be considered in accordance with the scheme."

5. The facts of the case are undisputed and the fact that the applicant's father died while performing the duty is not contested. Therefore the present case becomes even more worthy of consideration than other cases where the deceased officials died in harness. Learned counsel for the applicant also placed reliance on the judgment Ernakulam Bench of this Tribunal in OA No.180/00985/2015 & MA No.180/01298/2015 in OA No.180/00985/2015, decided on 09.09.2016 in support of his contentions, wherein it is held as under :

"19. This Tribunal feels that in order to do complete justice to the

applicant and to those already selected and appointed in the impugned CRC proceedings the strategy in *Sherly Idicula's* (supra) has to be adopted in this case also. Accordingly, while quashing and setting aside Annexure A6 and Annexure R2 minutes qua the applicant, respondent No.1 is directed to convene review CRC meetings of the CRC meetings held on 21/22.11.2012, 30.9.2013/1.11.2013, 1.4.2014 & 31.12.2014 and to consider the case of the applicant based on the relative merit point awarded in Annexure R/2 minutes and carrying forward his request to the review meetings of the subsequent CRCs, in terms of Annexures A12 and A18 OMs issued by the DoP&T. In the event of applicant found to have obtained higher relative merit points than any one of the candidates mentioned in Annexure A17 series minutes, he shall be considered for appointment on compassionate grounds assigning appropriate seniority, after deducting one vacancy earmarked for appointment on compassionate grounds to be considered by the next forthcoming regular meeting of the CRC. The above exercise shall be completed within six months from today. Ordered accordingly."

6. On careful consideration of the facts and submissions, twice the applicant's application has been rejected on the ground that the case of the applicant for compassionate appointment does not fall in 5% direct recruitment quota. However, since there is no bar for consideration and no time limit, it can be considered against future vacancies. Accordingly the Respondents are directed to consider the applicant's case for compassionate appointment in the future vacancies as per the extant rules and regulations and pass appropriate speaking orders within a period of four months from the date of receipt of a copy of this order.

7. OA disposed of as above. No order as to costs.

(NAINI JAYASEELAN)

ADMINISTRATIVE MEMBER

Dated : 18<sup>th</sup> June, 2019.

Dictated in Open Court.

vi

