

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

Original Application No.21/369/2018

Date of Order: 2.07.2019

Between:

S. Suresh, Group D,
S/o. Balayya, Aged 31 years,
Occ: Unemployed,
R/o. Chinthakunta BO,
A/w. Sri Rangapur SO,
Wanaparthi District.

... Applicant

And

1. Union of India, Rep. by
The Director General,
Dept of Post, New Delhi – 110 001.
2. The Chief Postmaster General,
Telangana Circle, Abids, Hyderabad – 500 001.
3. The Postmaster General,
Hyderabad Region, Abids,
Hyderabad – 500 001.
4. The Supdt. Of Post Offices,
Wanaparthi Division,
Wanaparthi – 509 103.

... Respondents

Counsel for the Applicant ... Mr.B. Gurudas

Counsel for the Respondents ... Mr. B. Venkana, Advocate for
Mrs. D. Shoba Rani, Addl. CGSC

CORAM:

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

ORAL ORDER

2. The OA is filed challenging the order of rejection dated 21.3.2017
of the respondents rejecting the request for compassionate appointment.

3. Applicant's father while working for the respondents organisation as Grameen Dak Sewak has died in harness on 8.4.2015. Being eligible, applicant has applied for compassionate appointment to the post of GDS which was rejected on 21.3.2017 stating that the applicant got less than 36 points required to be considered. Applicant represented on 27.12.2017 to reconsider his case based on the revised guidelines issued on 30.5.2017 and followed it up by a reminder dated 6.4.2018. There being no response, OA has been filed.

4. Applicant contends that the points were not properly allotted. Instead of allotting 43 points, respondents have allotted 33 points. Impugned order is not a reasoned order. Applicant is eligible to be considered as per the revised guidelines issued on 30.5.2017. Denying a beneficial order with retrospective effect is bad in law. The memo dated 30.5.2017 is self contradictory. Fixing a cut off date artificially dividing a homogeneous class is violative of Article 14 of the constitution. Less meritorious candidates are likely to be selected by extending the provisions of the memo dated 30.5.2017 to only those who applied after the issue of the memo and not applying the norms to the cases prior to the issue of the said memo.

5. Respondents resist the contentions of the applicant stating that since he got less than 36 points, the minimum required, his request for compassionate appointment was rejected on 21.3.2017. Applicant has own land of 8 guntas and also has own house of value Rs.1,50,000. Points were correctly allotted based on Directorate guidelines. Representations made by the applicant on rejection of his request for

compassionate appointment, were disposed of on 22.5.2018. Respondents cited a number of judgments of the Hon'ble Supreme Court and this Tribunal in support of their assertions.

6. Heard both the counsel and perused the records as well as the material papers submitted.

7. I) Respondents constitute one of the instrumentalities of the State and therefore, they are enjoined upon to enact the role of a model employer. Any decision taken by a model employer has to be a reasoned and a speaking order. It needs no reiteration that an administrative order which has a civil consequence has to be a reasoned order. The impugned order issued by the respondents dated 21.3.2017 is neither speaking nor a reasoned order. It does not touch upon the context, contention, consideration and the conclusion. The marks obtained by the applicant on different attributes, marks obtained by other candidates considered along with the applicant to usher in transparency and objectivity in assessment have not been indicated. By giving such details applicant would be aware as to whether the marks have been allotted as per the prevailing guidelines and as to where he stands vis-à-vis others considered by the respondents. In not providing such information while issuing the impugned order, respondents are giving scope for grievances to emerge. Any order, which is not reasoned, is invalid 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) Respondents have cited a number of Hon’ble Apex Court verdicts and this Tribunal orders, which on close perusal are found not to be relevant to the instant case, as the observations therein mostly deal with the aspect that compassionate appointment cannot be considered as a matter of right, vacancies have to be there, indigent circumstances have to be assessed, infirmity in the order has not been brought out. The indigent circumstances of the applicant are assessed based on the points allotted. The points allotted to different attributes have not been indicated in the impugned order to assess as to whether the applicant was in financial distress. Tribunal agrees with the Respondents that compassionate appointment cannot be sought as a matter of right. However, applicant has a right to be considered. The cadre to which the applicant is seeking appointment is GDS cadre. Respondents have not indicated anywhere in the reply statement that there were no vacancies in GDS cadre to consider the case of the applicant. Applicant is questioning the allotment of points as well as the impugned order being a non-speaking order. Therefore, action of the respondents suffers from the infirmities cited.

III) Thus, based on the above, the action of the respondents is illegal and arbitrary. Hence the impugned order dated 21.3.2017 is quashed. Consequently, respondents are directed to reconsider the request of the applicant for compassionate appointment as per the latest guidelines issued on 30.5.2017 and issue a speaking and a well 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 direction, the OA is allowed.

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

Dated, the 2nd day of July, 2019

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