

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

Original Application No.21/22/2019

Date of Order: 16.09.2019

Between:

M.A. Khaja Moinudedin, S/o. late M.A. Qaqqum,
Aged 40 years, R/o. H. No. 12-2-830/A/57,
L.B. College Lane, Hill Colony,
Mehdipatnam, Hyderabad.

... Applicant

And

UOI,

1. The Central Board of Excise and Customs,
Represented by its Chairman,
815, Nehru Place Market Road, Nehru Place,
New Delhi – 110 019.
2. The Chief Commissioner of Customs,
Central Excise & Service Tax, Hyderabad Zone,
Hyderabad GST Commissionerate, GST Bhavan,
LB Stadium Road, Basheerbagh, Hyderabad.
3. The Principal Commissioner of Central Tax,
Hyderabad GST Commissionerate, GST Bhavan,
LB Stadium Road, Basheerbagh, Hyderabad.
4. The Committee for Compassionate Appointment,
Department of Customs, Central Excise & Service Tax,
Hyderabad GST Commissionerate, GST Bhavan,
LB Stadium Road, Basheerbagh, Hyderabad.

... Respondents

Counsel for the Applicant ... Mrs. P. Kavitha, Advocate for
Mr. N. Ramesh

Counsel for the Respondents ... Mr. D. Satyaveer, Addl. CGSC

CORAM:

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

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

2. The OA is filed for not considering the candidature of the applicant for compassionate appointment by awarding correct marks.

3. Brief facts of the case are that the father of the applicant while working as Hawaldar in the respondents organization died in harness on 14.08.2003 leaving behind his wife i.e. mother of the applicant, applicant and three sisters. On the demise of his father, applicant preferred an application for compassionate appointment on 24.10.2003. Respondents were seeking information, but were not finalizing his request. Hence, applicant approached this Tribunal in OA 1290/2011, wherein vide order dt. 09.12.2011, it was directed to consider the case of the applicant and pass appropriate orders. Respondents have not considered his request on the basis of relative merit. Aggrieved, this OA has been filed.

4. Contentions of the applicant are that the Screening Committee has allotted points for selection under compassionate appointment grounds based on the method followed by Department of Posts, which is not applicable to the respondents organization. Even as per this system of allotting points, applicant has to be awarded more than 47 marks, but the selection committee has allotted less than 47 marks on two occasions. Therefore, proper criteria in allotting marks has not been adopted by the screening committee. Applicant alleges that candidates who secured more marks were not given appointment. Applicant further alleges that Smt. K. Ramadevi, who applied for compassionate appointment was

considered in a manner lacking transparency in terms of allotment of points for compassionate appointment. Allotment of points has been arbitrary.

5. Respondents in their reply state that the case of the applicant was processed in 2003-04 and 2004-05, but could not be considered on relative merit and as per the guidelines on the subject. Applicant on approaching this Tribunal in OA 455/2012, his case was re-considered consecutively in 2014, 2016, 2018 and rejected based on relative merit and the availability of vacancies. Respondents claim that the system of allotting points to consider cases of compassionate appointment was adopted based on the procedure followed by the Department of Posts, but with a few modifications. Therefore, there is a set objective procedure established in the organization to examine cases of compassionate appointment. Allotment of points has been done as per the prevailing guidelines. In respect of Smt. K. Ramadevi, initially the said applicant did not submit full details and later, when they were submitted, proper merit points were allotted as per guidelines. Merit points also vary from year to year based on the family pension received by the family of the deceased.

6. Heard both the counsel and perused the pleadings on record.

7. I) Applicant has applied for compassionate appointment way back in 2003 and it was re-considered by the respondents due to intervention of the Tribunal in the years 2014, 2016 & 2018. However, as per their guidelines, respondents claim that the applicant could not be

selected due to lack of vacancies and relative merit. When the case was heard, learned counsel for the applicant has submitted a document obtained under Right to Information Act, bearing C.No.IV/16/221/2018-RTI (Tech) [Order No. 206/2018] dated 24.10.2018 issued by the CPIO/ Assistant Commissioner (Tech), Office of the 3rd respondent herein, wherein the details of candidates selected in the year 2014-15 have been furnished. In the said list, it is seen that Sri N. Sitra Rama Sastry was selected on compassionate grounds as Stenographer Gr. II in the year 2014-2015 though he secured 44 points.

II. Respondents in the reply statement have stated that number of points obtained by the applicant is 45 and that he could not be considered for MTS as there was only one vacancy. It is seen that the applicant is a Graduate. Therefore, learned counsel for the applicant states that he could have been considered for other posts as well. Respondents have not enclosed any document giving details of the candidates selected year-wise along with their marks and the points allotted to each of the attributes so that the applicant could have been well informed of his position in regard to the selection on compassionate grounds. In fact, respondents vide letter bearing C.No. II/3/33/2003 dated 18.06.2014 have indicated the points obtained by the applicant as 45, but did not reveal the points secured attribute-wise as well as the points allotted to other candidates considered along with him for compassionate appointment. It needs no reiteration that selection is a very sensitive issue and it needs to be objective and as transparent as possible, particularly in regard to the compassionate appointment. The method that ought to have been

adopted was to display the marks obtained by the applicant attribute-wise and also of those who have been considered along with him so that there would not have been any room for a grievance to germinate. In the present case, in the absence of such details, a doubt has arisen as to why applicant who has got 45 marks has not been considered, whereas N. Sitra Rama Sastry who got 44 marks has been considered. There is no explanation from the learned counsel for the respondents when questioned in regard to the same at the time of hearing nor did the respondents submit any record explaining for such deviation. It is well settled law, that a order which has adverse civil consequences, has to be a reasoned order, lest it will be invalid. The action of the respondents, as expounded supra, has not been in accordance with the provisions of law.

III. Therefore, in all fairness, it would appropriate to direct the respondents to reconsider the case of the applicant for compassionate appointment strictly as per rules and guidelines prevailing in the respondents organization by issuing a speaking and reasoned order, wherein the details in regard to the points allotted to the applicant as well as those considered along with him need to be indicated. Respondents are given 12 weeks time to implement the above order. OA is allowed with the above directions. There shall be no order as to costs.

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

Dated, the 16th day of September, 2019

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