

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

**Original Application No. 020/0248/2019**

**Date of Order : 13.09.2019**

Between :

G.Phani Raj Kumar, S/o Late Gummineni Mohan Ram,  
aged about 43 years, Unemployee, Gr 'C',  
R/o H.No.58-2-13, Anjaneya Swamy Temple Street,  
Santhapet, Ongole – 523 001.

... Applicant.

And

1. The Union of India, Rep. by its Director of Accounts (Postal),  
Department of Posts,  
Hyderabad – 500 001.

2. The Post Master General,  
Vijayawada Region, Vijayawada – 520 003.

3. The Senior Superintendent of Post Offices,  
Prakasam Division, Ongole – 523 001.

4. The Chief Post Master General,  
Dak Sadan, Abids, Hyderabad – 500 001.

... Respondents.

Counsel for the Applicant	...	Mr.S.Gopal Rao, Advocate
Counsel for the Respondents	...	Mrs.K.Rajitha, Sr.CGSC

**CORAM:**

<b><i>Hon'ble Mr.B.V.Sudhakar</i></b>	<b>...</b>	<b><i>Member (Admn.)</i></b>
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**ORAL ORDER**

The OA is filed challenging the proceedings dated 24.08.2018, rejecting the claim of the applicant for appointment under compassionate grounds as Postal Assistant.

2. Brief facts of the case are that the father of the applicant retired on medical invalidation vide memo dated 09.01.2002 from the respondents organization. Later, father of the applicant passed away on 09.05.2002 leaving the family in indigent circumstances. Consequent to the demise of his father, applicant requested for appointment on compassionate grounds. As the respondents did not respond to his representation, applicant filed OA.810 of 2015 which was disposed of directing the respondents to examine the request of the applicant as per rules. Accordingly, respondents examined and rejected the request of the applicant for compassionate appointment on 28.12.2015. Aggrieved, once again applicant approached this Tribunal in OA.311 of 2016 and the same was dismissed by this Tribunal by order dated 28.10.2016. The matter was taken up by the applicant to the Hon'ble High Court in Writ Petition No.5437 of 2017, which was allowed by the orders of the Hon'ble High Court dated 23.04.2018. As the orders of the Hon'ble High Court are not implemented, applicant filed C.C.No.2246 of 2018 in W.P.No.5437 of 2017, which was dismissed after hearing both the parties. Thereupon, respondents without complying with

the orders of the Hon'ble High Court have rejected the claim of the applicant on 24.08.2018. Aggrieved over the same, present OA has been filed.

3. The contentions of the applicant are that Sri T.Balaji Venkateswara Rao has been appointed on compassionate grounds on the death of his father, but his case was rejected for appointment on compassionate grounds and therefore there is discrimination in considering the request of the applicant for compassionate appointment. The impugned order dated 24.08.2018 is unreasonable and irrational.

4. Learned counsel for the respondents has submitted the standing instructions received from the respondents covering all the salient and relevant aspects of the OA. It was mentioned in the standing instructions that compassionate appointment would be granted to the ward of the employee who has retired on medical invalidation, provided he retires before the age of 55 years. In the present case the father of the applicant retired when he attained the age of 55 years 9 months and 11 days. Therefore as per rules, applicant is not eligible for compassionate appointment. The respondents also state that though the applicant is not eligible for compassionate appointment, yet his case was considered by the competent authority, but could not be recommended due to limited number of vacancies. Admissible pension and other pensionary benefits were sanctioned and paid to the family of the deceased employee. Respondents

also state that after lapse of nearly 10 years of the death of the employee, applicant filed OA.810 of 2015, wherein it was directed to dispose of the representation. Accordingly the same was disposed of as the applicant was not found to be eligible for appointment on compassionate grounds. Later when the applicant moved the Tribunal in OA.311 of 2016, it was dismissed. The matter was later taken up with the Hon'ble High Court in Writ Petition No.5437 of 2017, which was allowed. As per the orders of the Hon'ble High Court the Circle Relaxation Committee met on 24.07.2018 and 25.07.2018 and rejected the claim of the applicant as the deceased retired on medical invalidation after attaining the age of 55 years. Based on the same, impugned order dated 24.08.2018 was issued in compliance of the order of the Hon'ble High Court. Applicant also moved contempt petition bearing C.C.No.2246 of 2018 which was closed by the Hon'ble High Court leaving it open to the petitioner to take steps before the appropriate forum in accordance with law. Hence the present OA before the Tribunal.

5. Heard Mr.S.Gopal Rao, learned counsel for the applicant and Mr.P.Lakshman representing Mrs.K.Rajitha, learned Senior Central Government Standing Counsel for the respondents and perused the pleadings on record.

6. In regard to the contentions made by the respondents, the relevant portion of the order of the Hon'ble High Court in Writ Petition No.5437 of 2017 is extracted herein :

*“It is no doubt true that after a long passage of years, the right to claim compassionate appointment would diminish substantially, if not vanish altogether. However, when the authorities themselves are responsible for denial of compassionate appointment to a deserving candidate and the said candidate continues to be in a state of penury, it would not be against the spirit of the compassionate appointments scheme and the law relating thereto to permit such an appointment even after lapse of years. Though the Post Master General, Vijayawada Region, cited the aspect of passage of time in the impugned Memo dated 28.12.2015, he himself adverted to the fact that T.Balaji Venkateswara Rao was provided compassionate appointment 11 years after the death of his father. Therefore, the postal authorities cannot use two different yardsticks in the context of passage of time for providing compassionate appointments.*

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*The Writ Petition is accordingly allowed setting aside the order passed by the Tribunal holding to the contrary along with the rejection orders. The respondents are directed to consider the case of the petitioner-applicant afresh for appointment on compassionate grounds, upon his furnishing an affidavit certifying his present financial condition. The respondents shall thereupon take an informed and reasoned decision in the matter and communicate the same, citing the details of the comparative analysis, if any, undertaken to evaluate his candidature. The exercise shall be completed expeditiously and in any event, not later than one month from the date of receipt of the affidavit of the petitioner-applicant detailing his financial condition.”*

7. As can be seen from the order of the Hon'ble High Court, respondents were directed to consider the case of the applicant on compassionate grounds afresh based on applicant's furnishing an affidavit certifying his present financial condition. On receipt of the same, respondents were expected to take an

informed and reasoned decision and communicate the same with details of the comparative analysis done to evaluate the candidature of the applicant. The respondents instead of considering the financial condition of the applicant, has rejected the request of the applicant on the ground that his father has retired after attaining the age of 55 years and therefore as per rules, the applicant is not eligible for compassionate appointment. This ground was not taken in the earlier OAs. Surprisingly the same has been furnished in the impugned order dated 24.08.2018. In fact, respondents themselves have admitted in para-4 of their letter dated 19.03.2019 that though the applicant is not eligible for compassionate appointment, the same was considered by the competent authority. Hence the respondents have examined the case of the applicant by relaxing the clause pertaining to retirement before 55 years of age for considering the ward of the concerned employee for compassionate appointment. Therefore taking such a ground as an objection to consider the case of the applicant for compassionate appointment does not appear to be reasonable. Respondents need to be consistent in their approach. They cannot take different stands on different occasions. If taken, the same reflects arbitrariness in decision making. More over, the orders of the Hon'ble High Court has been to evaluate the financial condition of the applicant and decide his case. The same has not been complied as per the records submitted by the applicant. Further, impugned order does not give details of those considered along with the applicant in regard to the marks obtained, to make the selection transparent. Hence one cannot say that the

impugned order dated 24.08.2018 is a reasoned order. An unreasoned order is to be considered as not valid in the eyes of law as per the judgement of the Hon'ble Supreme Court in ***Ram Phal v. State of Haryana, (2009) 3 SCC 258.*** Consequently, the impugned order issued on 24.08.2018 is invalid. Therefore, in view of the above, respondents are directed to reconsider the request of the applicant as per the orders of the Hon'ble High Court by making a study of the financial condition and thereafter decide his case. Hon'ble Supreme Court has observed in cateena of judgements that compassionate appointment has to be considered based on the indigent circumstances in which the family is placed. Respondents do not appear to have made any study in regard to the same. Nor it was argued so during the hearing. Hence the case of the applicant needs second look.

8. In view of the aforementioned, case of the applicant need to be reconsidered as the order of the Hon'ble High Court has not been complied in letter and spirit and also the impugned order is not a reasoned order, since it has not contained the details of all those selected candidates. Hon'ble Supreme Court has clearly stated that the comparative merit has to be considered to assess the indigent condition of the deceased family. Even on this count impugned order is found to be deficit. Therefore, impugned order dated 24.08.2018 is quashed. Consequently, the respondents are directed to reconsider the request of the applicant for compassionate appointment to the post of Postal Assistant

within a period of eight weeks from the date of receipt of a copy of this order and issue a speaking as well as a reasoned order.

9. With the above directions, OA is allowed. There shall be no order as to costs.

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

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