

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

Original Application No.021/00665/2019

Date of Order : 16.09.2019

Between :

Gandham Bhumakka,
W/o Late Ramulu, Ex-EDMC,
Aged about 50 years, Occ : Housewife,
R/o Peddur SO – 504 202, Adilabad Division,
Nirmal District, Telangana State. ... Applicant.

And

1. Union of India, rep. by
The Secretary, Government of India,
MOC & I.T., Dept. of Posts,
Sansad Marg, New Delhi – 110 001.

2. The Chief Postmaster General,
Telangana Circle, Abids,
Hyderabad – 500 001, T.S.

3. The Postmaster General,
Telangana Circle, Abids,
Hyderabad – 500 001, T.S.

4. The Superintendent of Post Offices,
Adilabad Division,
Adilabad – 504 001. ... Respondents.

Counsel for the Applicant ... Mr.B.Gurudas, Advocate
Counsel for the Respondents ... Mr.B.Rajeswara Rao, Addl.CGSC

CORAM:

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

ORAL ORDER

{As per Hon'ble Mr.B.V.Sudhakar, Member (Admn.)}

The OA is filed for not considering the case of the applicant for compassionate appointment.

2. Brief facts of the case are that the applicant's husband who worked as Gramin Dak Sevak in the respondents organization has passed away on 26.02.1996. Applicant was not informed of the provisions of the compassionate appointment as required under the Rules. Only on repeated requests, claim of the applicant for compassionate appointment was processed and rejected on 15.06.2005 without furnishing any valid reasons. Applicant represented against the rejection, but in vain. Aggrieved over the same, present OA has been filed.

3. The contentions of the applicant are that the action of the respondents is against the order of DG Posts dated 13.04.2017 which states that there is no time limit in considering the cases for compassionate appointment. Respondents are expected as per the DG letter dated 05.08.1993 to assist the family of the deceased in applying for compassionate appointment. Applicant has minor children and therefore, she had applied for appointment on compassionate grounds. The impugned orders issued by the respondents are neither speaking nor reasoned. Cases of compassionate appointment have to be processed on

merits, as there is no time limit in taking up such cases.

4. Respondents in their reply statement have opposed the contentions of the applicant stating that the second respondent referred the case of the applicant for compassionate appointment to the first respondent as the case was delayed for more than five years. First respondent examined the case and rejected it on 08.06.2005. Applicant represented on 07.10.2005, but it was replied stating that since the first respondent had already rejected her case, the same cannot be reconsidered. Applicant did not give up, but again represented on 09.02.2018, which was appropriately responded to. Respondents also stated that the applicant does not have the requisite educational qualification to consider her for compassionate appointment, since she possessed the educational qualification of 5th class. Whereas educational qualification required is S.S.C. pass for any post of GDS.

5. Heard Mr.B.Gurudas, learned counsel for the applicant and Mr.B.Rajeswara Rao, learned standing counsel for the respondents and perused the pleadings on record.

6 (i) The main contention of the respondents is that albeit the applicant applied belatedly for compassionate appointment, even then, respondents have examined the case and initially rejected it on 08.06.2005. Applicant did represent

later on a couple of occasions, but they were not considered to favourably. Respondents while agreeing to the fact in their reply statement that there is no time limit for compassionate appointment, but since closed cases cannot be re-opened as per the Directorate letter dated 30.05.2017, the request of the applicant had to be necessarily rejected. Further, respondents have stated that the revised guidelines for compassionate appointment issued on 30.05.2017 are not applicable to the applicant since the cases pending as on 30.05.2017 can only be considered as per the revised guidelines and not those which were examined and closed in the past. Besides, respondents stressed the fact that there has been delay of nearly 13 years in claiming compassionate appointment and therefore as per Hon'ble Supreme Court observations in ***MGB Gramin Bank vs. Chakrawarti Singh***, the case of the applicant cannot be entertained.

(ii) It is evident from the facts on record that the applicant's husband died in 1996 . As per DG's instructions dated 05.08.1993 respondents are expected to assist the deceased family in applying for compassionate appointment. Respondents have not taken any initiative in doing so. More so, applicant has passed only 5th class and therefore, she may not be aware of the different welfare facilities being offered by the respondents. Besides, case being delayed beyond five years it was sent to first respondent, who in turn took some time for examining and disposing the request of the applicant. Thus there is inaction and delay on part of the respondents as well. Hence blaming the applicant for the

delay is unfair. In fact, respondents themselves have stated that there is no time limit in processing the compassionate appointment in the reply statement. Hence the question of delay should not come in the way of processing the request of compassionate appointment. The other objection raised by the respondents is that the applicant does not have the required educational qualification to be considered for compassionate appointment to any of the categories of the Gramin Dak Sevaks. The submission of the respondents is invalid since the DG Posts vide letters dated 14.12.2010 and 09.03.2012 has clarified as under :

"Clarifications : (1) and (2) :- The reply to the first part of the query is in the affirmative. However, in conformity with the spirit of the orders of the Department of Personnel under references, the relaxation would be available only to the widow/widower of the deceased ED Agent and that too only for appointment against such category of ED posts for which the prescribed minimum educational qualification is that of Group 'D', i.e., middle class pass. The claimant widows/widowers should, however, at least be a literate in cases where the minimum educational qualifications is relaxed in his/her favour. In the absence of a vacancy at village post, compassionate appointment can be given in any other Post Office in the vicinity/neighbourhood of his/her place of residence. In this connection, instructions contained in Postal Directorate Letter No.14-25/91-ED & Trg., dated 5-8-1993, may also be kept in view. However, the condition for Matriculation qualification for EDBPMs/EDSPMs should be insisted upon in cases where the death of the incumbent has taken place on or after 1-4-1993."

(iii) As per the said clarification, applicant being a widow can be considered for compassionate appointment, provided, she is literate. In the present case applicant has passed 5th class, therefore, she is eligible for compassionate appointment as per the above cited clarification. Besides, learned counsel for the respondents took one another objection stating that the services

of the applicant's husband were not regularized and therefore applicant cannot be considered for compassionate appointment. However, learned counsel for the respondents did not submit any record to substantiate his submission. Furthermore, first respondent has examined the case of the applicant for compassionate appointment and rejected it. First respondent at the first instance, would not have examined the case, if in case the services of the applicant's husband were not regularized. More over in the reply statement it was clearly stated at para-3 as under :

"A proposal for compassionate appointment was submitted to the office of 3rd Respondent vide 4th Respondent letter dated 19.05.2003 for the post of Gramina Dak Sevak Mail Carrier, Angarajpalle Branch Post Office in account with Chinoor Sub Office Adilabad Division for onward submission to the office of 2nd Respondent for consideration by the Circle Relaxation Committee."

(iv) Thus from the above, objection taken by the learned counsel for the respondents that the deceased employee was not a regular ED employee lacks logic. Further the impugned orders issued by the respondents dated 10.03.2018 and 03.04.2018 do not bear any semblance of a speaking or a reasoned order. Even the orders issued by the respondents rejecting the request of the applicant on 07.06.2005 and 08.06.2005 are cryptic. Hon'ble Apex Court has emphasized time and again the need to issue a speaking and reasoned order by a quasi judicial authority and the broad contours of the same can be seen in ***Oryx Fisheries (P) Ltd. v. Union of India, (2010) 13 SCC 427 at page 439***. The observations of the Hon'ble Supreme Court are herein extracted :-

39. *On the requirement of disclosing reasons by a quasi-judicial authority in support of its order, this Court has recently delivered a judgment in Kranti Associates (P) Ltd. v. Masood Ahmed Khan [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] on 8-9-2010.*

40. *In Kranti Associates [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below: (SCC pp. 510-12)*

"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice

delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

*(m) It cannot be doubted that transparency is the *sine qua non* of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* (1987) 100 Harv. L. Rev. 731-37.)*

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553], EHRR at p. 562, para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 : 2001 ICR 847 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(v) The judgement of the Hon'ble Supreme Court cited by the respondents is not relevant, since the respondents have not assessed the indigent circumstances in which the applicant is placed. They went on harping on delay and not considering cases already closed. Beyond, they had no convincing argument, to be upheld, for rebutting the claim of the applicant.

(vi) Thus from the above it is clear that the action of the respondents is not as per rules and also not in tune with the spirit of the observations of the Hon'ble Supreme Court cited supra. Hence the impugned orders referred to above are quashed. Consequently, respondents are directed to reconsider the case of the applicant for compassionate appointment to any of the categories of the GDS posts within a period of eight weeks from the date of receipt of this order and issue a reasoned and speaking order.

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

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

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