

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

Original Application No.20/772 /2018

Date of Order: 23.07.2019

Between:

K. Muhammad Usman Basha
S/o Late K. Mahaboob Basha
Ex-SPM, VVReddy Nagar SO
Aged about 27 years
R/o D.No.7/83, Darga Veedhi
Korrapadu Village
Rajapalem Mandal
Cuddapah District. Applicant

AND

1. The Union of India represented by
Its Secretary
Ministry of Communications & I.T.
Department of Posts – India
Dak Bhavan, Sansad Marg
New Delhi – 110 001.
2. The Chief Postmaster General
Andhra Pradesh Circle
Vijayawada.
3. The Superintendent of Post Offices
Proddatur Division
Proddatur. Respondents

Counsel for the Applicant Mr.M. Venkanna.
Counsel for the Respondents Mrs. B. Gayatri Varma, Sr. PC for CG

CORAM:

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

ORAL ORDER

2. The OA is filed challenging the rejection of compassionate appointment for the post of Postal Assistant to the applicant.

3. Brief facts of the case are that the applicant's father while working as Sub-Postmaster, in the respondents organization, died on 15.06.2013 leaving behind two sons, two unmarried daughters and his wife. The applicant's father while he was alive borrowed certain amounts and the same was also done by his mother after the demise of his father. Consequently, terminal benefits of Rs.7,90,000/- was mostly paid towards loan raised by his late father and his mother. On the demise of his father, applicant applied for compassionate appointment, which was rejected by respondents on 14.02.2018. Aggrieved over the same, the applicant filed OA.

4. The contentions of the applicant are that the terminal benefits have been mostly used to repay loans. There are many liabilities like getting sisters married, which are to be attended to. Similarly situated persons like the applicant were considered for compassionate appointment by the respondents. DoPT instructions clearly stipulate that respondents need to consider cases of compassionate appointment, which were rejected, in the

subsequent meetings of the Circle Relaxation Committee (in short, CRC).

The impugned order is a bald order.

5. Respondents, in their reply, submit that the late father of the applicant, while working as Sub-Post Master in the respondents organization, collected deposits towards SB/PLI/RPLI/KVP to the tune of Rs.1,37,448/- and did not account for the same. The said employee died on 15.6.2013. Consequently, wife of the deceased employee sought compassionate appointment for her son, who is the applicant in the OA. The application of the applicant was duly processed by the CRC which met on 6.11.2017, 16.1.2018 and 5.2.20918 and rejected the case on the grounds that the record of the deceased employee was blemished. The respondents relied on DoPT OMs dated 26.7.2012, 16.1.2013 and 30.05.2013 in rejecting the case of the applicant.

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

7. (I) The applicant, who has done B. Pham, applied for compassionate appointment on the demise of his father, who worked in the respondents organization, as Sub Post Master. The CRC examined the request of applicant for compassionate appointment, and rejected the same on the ground that the late employee has blemished record. In support of the

decision, the respondents have cited DoPT instructions dated 26.7.2012, 16.01.2013 and 30.05.2013. The instructions cited by the respondents were perused. The OM dated 26.07.2012 speaks about review of 3 years time limit for making compassionate appointment. The second and third OMs dated 16.01.2013 and 30.05.2013 respectively are about Frequently Asked Questions (FAQs) on compassionate appointment. In the said Memos, there is no reference in regard to blemished record for providing compassionate appointment. Therefore, the OMs cited by the respondents in rejecting the request of the applicant for compassionate appointment are irrelevant. Further, impugned order issued by the respondents is, as under:

“I am directed to inform you that your request for compassionate appointment for PA was considered by the Circle Relaxation Committee which met on 06.11.17, 16.01.18, 05.02.18 and found not to be in indigent circumstances to provide compassionate appointment keeping in view of the instructions of DOPT OM F.No.14014/3/2011-Estt.(D) dated 26.07.2017 and F.No.14014/02/2012-Estt.(D) dated 16.01.2013 & 30.05.2013.”

The impugned order is neither a speaking nor a reasoned order. Besides, the Memos, cited in the impugned order, are not relevant. Hence, the impugned order is invalid in the eyes of law. Hon'ble Supreme Court has observed that if reasons are not given in an administrative order then such an order is lifeless, as under, in **Ram Phal v. State of Haryana**, (2009) 3

SCC 258:

“6. The duty to give reasons for coming to a decision is of decisive importance which cannot be lawfully disregarded. The giving of the satisfactory reasons is required by the ordinary man's sense of justice and also a healthy discipline for all those who exercise power over others. This Court in Raj Kishore Jha v. State of Bihar [(2003) 11 SCC 519 : 2004 SCC (Cri) 212] has stated: (SCC p. 527, para 19)

“19. ... Reason is the heartbeat of every conclusion. Without the same, it becomes lifeless.”

(II) Besides, late employee has deceased and disciplinary case if any against him abates. The DOPT OM No.11012/7/99-Estt.(A), dated 20.10.1999 makes it abundantly clear that when a Government Servant dies during the pendency of the inquiry, i.e. without charges being proved against him, imposition of any of the penalties prescribed under CCS (CCA) Rules, 1965 would not be justifiable. Therefore, disciplinary proceedings should be closed on the death of the Government Servant. This OM is also in favour of the cause of the applicant, since the allegations made against the late employee are not proved in view of his death.

(III) Thus, as seen from the above, action of the respondents is arbitrary and against the legal principle enunciated by the Hon'ble Apex Court. Consequently, impugned order dated 28.02.2018 is quashed. Respondents are therefore directed to reconsider the case of the applicant as per extant rules by placing it before Circle Relaxation Committee and

issue a speaking and well reasoned order, within a period of 3 months from the date of receipt of a certified copy of this order.

With the above direction, OA is allowed with no order as to costs.

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

Dated, the 23rd day of July, 2019

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