

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

Original Application No.20/863/2018

Date of Order: 01.08.2019

Between:

K. Srinivasa Rao, S/o Late K. Rama Rao
Ex.GDS MC/MD, Thanellanka BO, Gr. `C`
Aged about 32 years, R/o 5-67/1, Mattadi Palem Village
Mandal Mummidavaram SO,
Amalapuram Divison.

... Applicant

AND

1. The Union of India
Represented by the Secretary
Ministry of Communications & IT
Department of Posts – India
(Establishment Division – GDS Section)
Dak Bhawan, Sansad Marg, New Delhi – 110 001.
 2. The Chief Postmaster General
A.P.Circle, Hyderabad – 500 001.
 3. The Superintendent of Post Offices
Amalapuram Division
Amalapuram – 533 201
Inspector of Posts, Amalapuram Sub Division
Amalapuram – 533 201.
- ... Respondents

Counsel for the Applicant ... Mr. Buddarapu Prakash
Counsel for the Respondents ... Mr. Lakshman, proxy of Mrs. K.Rajitha, Sr. CGSC.

CORAM:

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

ORAL ORDER

2. The OA is filed for rejecting the request of the applicant for compassionate appointment in the cadre of Gramin Dak Sevak.

3. Brief facts of the case are that the applicant's father, while working for the respondents organization, expired on 17.03.2011. Thereafter, applicant sought compassionate appointment, which was rejected by the respondents. Aggrieved over the same, applicant moved this Tribunal in OA 1535 of 2012 wherein it was directed to re-consider the request of applicant. Once again, respondents reconsidered the request of applicant but rejected on the ground that applicant secured only 47 points and that he, being married, is not eligible for compassionate appointment as per letter dated 09.10.2013 of respondents. Applicant contested the same in OA 1102 of 2014 wherein it was directed to re-consider the case as per relevant rules. Applicant moved a Contempt Petition No.118 of 2016 on the ground that respondents have failed to comply with the directions of this Tribunal dated 30.05.2016 in OA NO.1102 of 2014. While the said Contempt Petition was pending, respondents issued an Order on 11.08.2016, rejecting the claim of applicant. Based on the same, the Contempt Petition was disposed of by this Tribunal on 14.06.2018 giving liberty to applicant to file a fresh OA, if his grievance continues to subsist. Consequently, the present OA has been filed, as applicant has not been granted the compassionate appointment.

4. The contentions of applicant are that the allotment of marks has not been done properly. Applicant stated that though there were three dependants, respondents allotted the marks by taking only two dependants into consideration. If the marks were properly allotted, the applicant would have been selected. Applicant has the requisite qualification to be eligible for compassionate appointment. Respondents' decision to reject the request of applicant was based on letter dated 10.06.2016, which is subsequent to the Tribunal's order dated 30.05.2016, is invalid. Applicant alleges mala-fide intention in rejecting his case for compassionate appointment.

5. Respondents, in their reply statement, informed that the request of applicant for compassionate appointment was rejected by the Circle Relaxation Committee, which met on 10.05.2012. Against the rejection, applicant filed OA 1535 of 2012, wherein it was ordered to reconsider the claim of applicant for compassionate appointment vide its order dated 09.06.2014. Accordingly, the case was re-considered and rejected on 10.09.2014 since the applicant got 47 points against the required points of 51, to be considered for compassionate appointment. Thereupon, applicant once again filed OA 1102 of 2014, which was disposed of by this Tribunal vide Order dated 30.05.2016 and according to the orders of the Tribunal in the said OA, the request of applicant was

re-examined and rejected. Respondents' main ground is that applicant has not secured the minimum required points of 51, to be considered for compassionate appointment. Later, respondents have relaxed the number of points to be considered for selection from 51 to 36 as per respondents' letter dated 17.12.2015. The claim of applicant that he should be considered as per the revised relaxed policy of the respondents cannot be considered since the respondents have issued a letter dated 10.6.2016, wherein it was clearly stipulated that cases already closed shall not be reopened. Therefore, the case of the applicant could not be processed.

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

7. (I) Applicant has been repeatedly approaching this Tribunal in regard to his unresolved grievance of not being considered for compassionate appointment. Respondents have stated that the case of applicant could not be considered because he got only 47 points against 51 points required. Applicant contends that respondents have not properly allotted marks as per the respondents' own guidelines. In particular, applicant states that there are 3 dependent members, namely, deceased employee's mother, wife and one unmarried son. In contrast, respondents claim that in the applicant's family there are 4 members, one is wife of the deceased, two married sons and one unmarried son of

the deceased. Respondents have been silent in regard to considering the mother of the deceased employee as a dependant member. If this would be considered, then applicant would have got the required number of points for being selected for appointment on compassionate grounds.

(II) Besides, the order of the Tribunal in OA No.1102 of 2014 issued on 30.05.2016, clearly states as under:

“13. In view of the above discussion, the impugned order dated 10.09.2014 is set aside remanding the matter back to the respondents directing them to re-consider the claim of the applicant for engagement as GDS MC/MD on compassionate grounds in accordance with the Circulars/Instructions issued by the Postal Directorate within eight weeks from the date of receipt of a copy of the order. Accordingly, this OA is disposed of.”

As per orders of the Tribunal, respondents have examined the case and issued Order dated 11.08.2016 rejecting the request of applicant on the ground that the letter dated 10.06.2016 does not permit consideration of cases already closed. The stand taken by respondents is unreasonable because the directions of the Tribunal in OA 1102 of 2014 were made available as on 05.07.2016, therefore, the case of applicant has to be treated as fresh and it cannot be considered as a closed case. Besides, respondents cannot sit on appeal over a judicial order. Respondents were expected to re-examine the case as per the directions of the

Tribunal. Their decision is inappropriate.

(III) Further, orders denying a benefit granted, with retrospective effect, are held to be legally invalid as per Hon'ble Supreme Court observations in **High Court of Delhi & Anr. v. A.K.Mahajan & Others**, (2009) 12 SCC 62, as under:

“45. In short, law regarding the retrospectivity or retroactive operation regarding the rules of selection is that where such amended rules affect the benefit already given, then alone such rules would not be permissible to the extent of retrospectivity.

Therefore, the order dated 10.06.2016 cannot deny the benefit of considering the case of applicant based on the relaxed standards contained in the OM dated 17.12.2015.

(IV) Moreover, the impugned order does not indicate as to the marks obtained by other candidates who competed along with the applicant. Compassionate appointment is being offered based on the marks allotted for different attributes and applicant has cited a discrepancy in allotting the marks for the attribute concerning dependants. The whole process involves selection and, therefore, it has to be transparent and objective. Respondents need to have enclosed the details of the candidates who were also selected and the marks

obtained by them attribute wise, so that applicant for that matter anyone who approaches us or the respondents for compassionate appointment, would be genuinely satisfied that their case has been processed fairly. Without furnishing such details issuing an order of rejection, would make the order invalid. In fact, Hon'ble Supreme Court has observed that an order which is not reasoned is a lifeless order, in **Ram Phal v. State of Haryana & Others**, (2009) 3 SCC 258, as under:

“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] has stated:

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

The impugned order issued, though elaborate, it does not specify the details required to make it a reasoned order. Thus, the order of rejection, vide impugned letter dated 11.08.2016, is also invalid.

(V) To sum up, based on the facts cited supra, the action of the respondents in rejecting the claim of the applicant is against the directions of the Tribunal as well as those of the superior judicial forums and, hence, it has to be construed to be arbitrary and illegal. Therefore, the OA is allowed and the impugned order dated 11.08.2016 is quashed.

Consequently, respondents are directed to re-consider the case of the applicant by making a careful and close examination, by keeping the history of the case in view and the directions of the Tribunal. Thereafter, respondents to issue a speaking and well reasoned order based on the extant guidelines governing the recruitment on compassionate grounds as on date. The time allowed to implement the aforesaid direction is three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

Dated, the 31st day of July, 2019

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