

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

**Original Application No. 021/0709/2019  
Date of Order : 16.10.2019**

Between :

P.Babu  
S/o Late Sri P.Mallanna  
Aged about 38 years  
Ex-GDSMC, Pendlimarri S.O.  
R/o Gopulapuram Village  
Vellatur Post  
Pendlimarri – 516 216. ... Applicant.

And

1. The Union of India, rep. by  
its Secretary, Government of India,  
Department of Posts, India,  
Dak Bhavan, Sansad Marg,  
New Delhi – 110 001.

2. The Chief Postmaster General,  
Andhra Pradesh Circle,  
Vijayawada – 520 013.

3. The Postmaster General,  
Kurnool Region,  
Kurnool – 518 002.

4. The Superintendent of Post Offices,  
Proddatur Division,  
Proddatur – 516 360,  
Dist : Y.S.R. ... Respondents.

Counsel for the Applicant ... Mr.M.Venkanna, Advocate  
Counsel for the Respondents ... Mrs.K.Bharathi, Addl.CGSC

**CORAM:**

*Hon'ble Mr.B.V.Sudhakar*

... *Member (Admn.)*

**ORAL ORDER**

The OA has been filed challenging the rejection of the claim of the applicant for compassionate appointment.

2. Brief facts of the case are that the applicant's father died in harness on 19.08.2012 while working as Gramin Dak Sevak in respondents organization. After the death of his father, applicant preferred an application for compassionate appointment, which was rejected by the respondents in the month of June 2019. Applicant is aggrieved that his case was not considered properly and also contrary to the judgement of this Tribunal in OA.1260 of 2016 dated 13.11.2017.

3. The contentions of the applicant are that the terminal benefits received by the family of the deceased have been used to repay the debts incurred by the deceased official with respect to the medical treatment taken by him. Similarly situated persons and who were placed in less indigent circumstances were considered by the respondents. Respondents have violated the instructions of this Tribunal to consider his case for compassionate appointment based on extant rules. Applicant claims that his case has to be considered as per the latest scheme introduced by the respondents vide letter dated 30.05.2017.

4. Respondents in their reply statement have stated that the Circle

Relaxation Committee considered the case of the applicant and rejected the same vide letter dated 10.06.2013 as the applicant got less than 51 points. Aggrieved, applicant filed OA.1260/2016 wherein it was directed to consider the case of the applicant in the next Circle Relaxation Committee as per the rules and the scheme by passing a reasoned order. Respondents reconsidered the case of the applicant by constituting the CRC and rejected the request on 28.05.2019 on the ground that the merit points obtained are below the threshold limit.

5. Heard Mr.A.B.L.N. Pavan Kumar, proxy counsel representing Mr.M.Venkanna, learned counsel for the applicant and Mrs.K.Bharathi, learned standing counsel for the respondents.

6. To adjudicate the issue, main aspect which need to be considered is the order of this Tribunal issued on 13.11.2017, wherein it was observed as under :

*"Under these circumstances, the applicant is directed to make a representation to the respondents seeking compassionate appointment and the respondents in turn are directed to consider the case of the applicant for compassionate appointment in the next CRC as per the scheme and also the rules governing the compassionate appointment. They are further directed to pass a reasoned order enclosing all the details relating to selection. With the above direction, the OA is disposed of. No costs."*

7. As can be seen from the order of the Tribunal, respondents were expected to consider the case of the applicant as per the scheme and rules governing the compassionate appointment. The Circle Relaxation Committee which is competent to decide such cases, met on 28.05.2019, rejected the request based on the scheme prevailing earlier to May 2017. It is surprising to

note that when the case of the applicant was considered in 2019, respondents are duty bound to examine the case based on the latest rules governing compassionate appointment which were revised in May 2017. The new Rules do not envisage any point system. Respondents have erred by applying the old rules instead of applying the new rules prevailing at the time when his case was considered on 28.05.2019. In fact, as per Hon'ble Supreme observations in **Vijay Kumar v. State of Punjab and others in CWP No.5565 of 2008 (O&M) decided on July 3, 2015** extracted hereunder, new rules apply to the scheme :

17. The question was, however, squarely raised before the Hon'ble Supreme Court in a later case *SBI v. Raj Kumar*, (2010) 11 SCC 661, at page 663.

21. Thus, the Hon'ble Supreme Court was called upon to decide as to which scheme was to be applied, the one in operation when the death occurred or the new one which had been formulated during the time when the claim was being processed. The Hon'ble Court held as under:

16. In this case the employee died in October 2004, the application was made only in June 2005. The application was not even made by the respondent, but by his mother. Therefore, it was necessary to ascertain whether the respondent really wanted the appointment, whether he possessed the eligibility, and whether any post was available. Within two months of the application, the new Scheme came into force and the old Scheme was abolished. The new Scheme specifically provided that all pending applications will be considered under the new Scheme. Therefore it has to be held that the new Scheme which came into force on 4-8-2005 alone will apply even in respect of pending applications."

8. As on the date of considering the case of the applicant new rules of May 2017 were in vogue and hence these new rules should have been applied.

Therefore, it is obvious that the respondents have not implemented the decision of the Tribunal dated 13.11.2017. Hence the impugned order issued by the respondents in June 2019 is irregular and illegal, since it is contrary to the observations of the Tribunal. Besides it is also to be mentioned that the submissions made by the respondents with regard to terminal benefits, submission of certain documents, letters, etc., are not relevant since the aspect which is critical to the case is as to whether order of the Tribunal has been implemented. More over as per DOPT Memo No.14014/02/2012-Estt (D), dated 30.05.2013 pensionary benefits received cannot be the criteria to decide compassionate appointment. Hon'ble Supreme Court in a cornucopia of judgements has observed that it is the indigent circumstances which are paramount in processing compassionate appointments, as per extant rules. To sum up, as has been observed above, the order of the Tribunal has not been implemented in letter and spirit and therefore the respondents are directed as under :

“To reconsider the case of the applicant as per the extant rules governing the compassionate appointment and pass a speaking and reasoned order within a period of three months from the date of receipt of the 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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