

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

Original Application No.20/851/2019

Date of Order: 06.11.2019

Between:

P. Dinesh Kumar
S/o Late V. Palani
Aged about 29 years
R/o H.No.2-498/3, Achari Street
Kondareddy Palli, Chittor District-517001. Applicant

AND

1. Union of India rep by its Director General
Department of Posts, Sansad Marg, New Delhi-1
2. The Chief Postmaster General
Andhra Pradesh, Vijayawada.
3. The Director of Postal Services
O/o Postmaster General
Kurnool Region, Kurnool-518002.
4. The Senior Superintendent of Post Offices
Chittoor Division, Chittoor – 517 001. Respondents

Counsel for the Applicant Mr. B. Pavan Kumar

Counsel for the Respondents ...Mr. V. Venu Madhav Swamy, Addl. CGSC

CORAM:

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

ORAL ORDER

2. OA has been filed for rejecting the claim of the applicant for Compassionate Appointment.
3. Brief facts are that the applicant preferred an application for Compassionate Appointment, on the death of his father, who worked in the respondents organization as Postal Assistant. The claim of the applicant was rejected by the respondents on 29.04.2014 on the ground of limited number of vacancies and also based on the relative merit. Aggrieved, OA has been filed.
4. The contentions of the applicant are that the impugned order rejecting the claim of the applicant is illegal and violative of Articles of 14 and 16 of the Constitution.
5. Respondents, in their reply statement, state that the family of the deceased was granted terminal benefits to the extent of Rs.2,72,371/- . The wife of the deceased employee is receiving family pension of Rs.13,432/- per month. The applicant's claim for Compassionate Appointment was considered by the Circle Relaxation Committee on 29.04.2014 and rejected it on the grounds of limited number of 5% of the total direct recruitment vacancies and also on the basis of the relative merit points. The case of the applicant was, in fact, considered by the respondents on 06.11.2017,

16.01.2018 and 05.02.2018 for the years 2016 and 2017 and was rejected since it was not a case deserving consideration. Respondents cited the Judgements of Hon'ble Supreme Court, Hon'ble High Court of Madras and also those of this Tribunal in support of their contentions.

6. Heard both the counsel and perused the pleadings on record.
7. (I) Respondents have grounded the Scheme of Compassionate Appointment, in order to enable the family members of a deceased employee to eke out decent living after the demise of the bread winner, while in harness. The respondents have evolved a point system to evaluate the attributes on which a decision could be taken to offer compassionate appointment to eligible candidates. In the instant case, respondents did consider the case of the applicant on quite a few occasions in the year 2016 and 2017 but rejected the same. However, the latest impugned order issued by the respondents reads as under:

“It is to inform you that the Circle Relaxation Committee which met on 29.04.2014 has not recommended your compassionate appointment case due to limited number of 5% of the total DR vacancies and you did not have merit selection in the relative merit points communicated by the Directorate.”

The order does not give the details of the points secured by the applicant nor does it indicate the relative merit of the applicant vis-à-vis those who have been considered along with him. Therefore, it is not known as to on

what basis the candidature of the applicant was rejected. Every order of a public/statutory authority, has to pass the test of reasonableness, as observed by the Hon'ble Supreme Court in **Oryx Fisheries (P) Ltd. v. Union of India**, (2010) 13 SCC 427 at page 439. The relevant observations are extracted hereunder:

“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'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “Due Process”.

The impugned order referred to above does not pass the test of reasonableness, hence, it is the violation of the observation of the Hon’ble Supreme Court, observed supra.

(II) Besides an order which is not reasoned, is a lifeless order. The Tribunal relies on the following Judgements of the Hon’ble Supreme Court:

(a) In Ram Phal v. State of Haryana, (2009) 3 SCC 258. The relevant paras of which are stating 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.”

(b) In Raj Kishore Jha v. State of Bihar & Others (2003) 11 SCC 519 observed as under:

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

(III) Further, Hon’ble High Court of Jharkhand in Jit Lal Ray v. State of Jharkhand in WP(C) No. 469 of 2019 decided on 26-04-2019, has categorically observed that any order which is not reasoned is not valid in

the eyes of law. The relevant portion of the judgment is extracted hereunder:

“It is settled position of law that a decision without any reason will be said to be not sustainable in the eyes of law, because the order in absence of any reason, also amounts to the violation of the principles of natural justice.”

In view of the above well settled legal position, the judgements relied upon by the respondents would not help to the case of the respondents.

(IV) Consequently, in view of the aforementioned facts, the impugned order being invalid is set aside. On setting aside the impugned order, the respondents are directed to consider the case of the applicant for Compassionate Appointment as per extant rules by issuing a speaking and well reasoned order detailing the points secured by the applicant and also of those who would be considered along with him. The time period allowed to implement the order is 3 months from the date of receipt of a certified copy of this order.

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

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

Dated, the 6th day of November, 2019

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