

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

Original Application No.20/1151/2018

Date of Order: 26.06.2019

Between:

Y. Pavan
S/o Late Ratnakara Rao
Aged 35 Years, Occ: Un-employee, G – C
R/o 3-55, Cinema Hall Road, Makkinawari Gudem
Mandal T. Narasapur, District West Godavari, AP. Applicant

AND

1. Union of India, Rep by its Secretary
Government of India, Ministry of Communications
And I.T.,
Department of Posts – India, Dak Bhavan,
Sansad Marg
New Delhi – 110 001.
2. The Assistant Director
Office of Post Master General
Vijayawada Region, Vijayawada
District Krishna – 520 003, A.P.
3. The Superintendent of Post Office
Eluru Division, Eluru
West Godavari District
Andhra Pradesh – 534 001. ... Respondents

Counsel for the Applicant ... Mr. V. Narasimha Goud.

Counsel for the Respondents ... Mr. B. Siva Sankar, CGSC

CORAM:

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

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

2. The OA is filed for non grant of compassionate appointment to the applicant.

3. Brief facts are that the applicant father died in harness on 15.12.2011 while working as Dak Sewak in the respondents organisation. Applicant, being eligible, applied for compassionate appointment which was rejected on 9.12.2013 as he got 39 points against 51 points to be secured to be eligible for compassionate appointment. When queried through RTI, points were revised as 42, conceding that there was mistake in allotting the marks. Further, marking was not done in regard to Intermediate educational qualifications possessed by the applicant and for income. If proper marks were to be allotted, applicant would have made it. Further, as per revised guidelines issued in 2015, merit points required to be considered for compassionate appointment is 36 instead of 51. Thus on both counts, i.e., by allotting correct marks and applying the revised guidelines, applicant could have been considered for compassionate appointment. Applicant represented on 13.8.2018 but since the respondents have not conceded, OA has been filed.

4. The spinal argument made by the applicant is that guidelines laid down in letter dated 14.12.2011 have not been followed.

5. Respondents, in the reply statement filed, inform that the request of the applicant was rejected by the Circle Relaxation Committee (CRC) on 27.5.2013, as the applicant got 42 points instead of a minimum of 51 points required. Later, as per letter dated 17.12.2015, merit points were revised to 36 points to be considered for compassionate appointment but with a proviso that cases considered and closed prior to the issue of the memo should not be reopened as per the clarificatory letter dated 10.6.2016. Applicant represented on 13.8.2018 to reconsider his case as per revised guidelines of reckoning 36 merit points but the same was rejected on 29.8.2018. Besides, family of the deceased were granted terminal benefits to the tune of Rs.1,48,717/-. The applicant admitted that he is living in his own house and has acquired Intermediate qualification. The allotment of 20 points as per guidelines in 2010 for Intermediate qualification was revisited in 2012 and the decision to allot 20 points for Intermediate education has been withdrawn. Respondents have cited observations of the Hon'ble Supreme Court in support of their contentions.

6. Heard both the counsel and perused the documents placed on record.

7. I) Respondents have issued the impugned order dated 29.8.2018 which does not give the details of the marks allotted to each of the attribute. It only states that since the applicant did not get 51 marks, required to be qualified for compassionate appointment, his case was rejected. By not furnishing the required details, applicant is deprived of the opportunity to know as to whether the marks were properly allotted to each of the attribute as per extant rules. Besides, details of those selected with their marks need to be mentioned so that the applicant is satisfied that he has a case or otherwise, to pursue. Respondents failed to furnish the vital details in the impugned order. Another aspect to be noticed is that the respondents have revised the marks allotted to the applicant from 39 to 42 which reaffirms the view that the communication of marks received by the prospective candidates is necessary for transparency and bring in objectivity in the selection process. It is not known as to whether even the 42 marks allotted is correct or otherwise, as the respondents did not furnish the details even while submitting the reply statement. De-facto, Right to Information Act, makes it mandatory to place information of public interest like selection *suo motto* in the public domain. To cut it short, the impugned order is neither a speaking nor a reasoned order. An order which is not reasoned is invalid in the eyes of law. In this regard, the Tribunal draws support from the observation of the Hon'ble High court of Jharkhand in **Jit Lal**

Ray v. State of Jharkhand, WP(C) No. 469 of 2019, decided on 26-04-2019, as under:

“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.”

Therefore, the impugned order dated 29.8.2018 is liable to be set aside.

II) One another important contention of the applicant is that the applicant though claimed that he has a house but it was inhabitable. The reply statement does not indicate as to whether a responsible official from the respondents organisation has visited the applicant family as per instructions contained in DOPT's Memo dated 16.1.2013. The visit has been mandated to guide the distressed family to apply for compassionate appointment. Such a visit will also serve the purpose of verifying the information submitted by the applicant is true or otherwise, as in the present case, the applicant's claim that the house belonging to the family is inhabitable. Respondents relied on documentary information rather than on direct evidence possible to be obtained by making a visit as enjoined in the DOPT's Memorandum, cited supra.

III) Respondents have cited the observations of the Hon'ble Supreme Court in regard to compassionate appointment. These

observations are not relevant to the case on hand as the impugned order is *non est*. The OA succeeds on this count.

IV) Therefore, based on the above it is crystal clear that the action of the respondents is against the instruction of DOPT contained in letter dated 16.1.2013 and against law as expounded above. The impugned order dated 29.8.2018 is thus quashed. Concomitantly, respondents are directed to reconsider the request of the applicant for compassionate appointment as per extant rules in vogue, within a period of 3 months from the date of receipt of this order. No order as to costs.

With the above direction the OA is allowed.

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

Dated, the 26th day of June, 2019

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