



OA.No./020/00558/2017

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

OA.No./020/00558/2017

Date of CAV : 21.08.2019.

Date of Order: 04/09/2019

BETWEEN:

Ande Satyanarayana, s/o A.V.S.Krishna Murthy,
Aged about 41 yrs, r/o 10-2, Satyanarayanapuram,
Lankala Koduru SO, Bhimavaram Division,
West Godavari District.

..... Applicant

AND

1. Union of India, rep., by the Director General,
Posts, Dept. Of Posts, Dak Bhavan,
Sansad Marg, New Delhi-1.

2. The Chief Postmaster General,
A.P.Circle, Hyderabad.

3. The Postmaster General, Vijayawada Region,
Vijayawada.

4. The Senior Superintendent of Post Offices,
Bhimavaram Division, Bhimavaram,
West Godavari District.

5. The Assistant Superintendent of Post Offices,
Palakol Sub-Division, Bhimavaram Division,
West Godavari District.

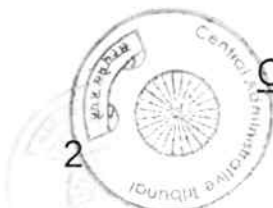
..... Respondents

Counsel for the Applicants : Mrs.Rachana Kumari,

Counsel for the Respondents : Mrs.K.Rajitha, Sr.CGSC

CORAM

The Hon'ble Mrs. Naini Jayaseelan, Administrative Member



: ORDER :

By Mrs. Naini Jayaseelan, Administrative Member

This OA is filed challenging the action of the 4th respondent, vide impugned order dated 01.08.2016 in rejecting the claim of the applicant for compassionate appointment consequent upon the death of his father, who died in harness while working as GDS/MC/MD, Velivela BO a/w Lankalakoduru SO.

2. **Brief facts of the case:**

The applicant's father Sri A.V.S.Krishna Murthy while working as GDS/MC/MD, Velivela BO a/w Lankala Koduru SO in Bhimavaram Division, West Godavari District, died in harness on 0304.2010 leaving behind his wife two daughters and a son. Upon the death of the employee, the 4th respondent paid an amount of Rs.1,21,741/- towards Ex-gratia Gratuity, CGEIS Insurance, Severance amount etc., to his wife.

3. The applicant submitted that his father suffered a heart attack and the family had to incur huge medical expenses. In order to meet the said expenses, the applicant had taken private loans and repaid the loans from the Death-cum-Retirement benefits of his father and thereafter the family was living in indigent conditions. The applicant's mother requested the

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respondent-authorities to consider the case of her son for considering appointment on compassionate grounds. The applicant passed 10th Class in 1995. But, the applicant was communicated vide order dated 25/28.05.2012 that his case for compassionate appointment was not recommended on the ground that the relative merit points for assessing the indigent condition were below the required 51 points.

4. The applicant further submitted that without considering his case for compassionate appointment in the post held by his father, the 5th respondent issued notification dated 19.07.2012 for filling up the said post denying the same to the applicant. Aggrieved by the rejection of his case, the applicant filed OA.No.930/2012 before this Tribunal. This Tribunal disposed of the said OA, vide order dated 10.06.2014 as under:

"7. In the result, the impugned order dated 25/28.05.2012 is quashed and set aside with a direction to the 4th respondent to re-consider the claim of the applicant for compassionate appointment with a reasoned order as per the scheme and instructions on the subject, granting six weeks time from the date of receipt of copy of the order. In view of setting aside the impugned rejection order dated 25/28.05.2012, the consequential notification dated 19.07.2012 is also liable to be set aside and is set aside accordingly. The applicant shall be continued as Substitute GDS/MC/MD, Velivela BO, a/w Lankala Koduru SO, Bhimavaram Division till finalization of re-consideration of his case for compassionate appointment."

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5. It is the applicant's case that the 2nd respondent instead of re-considering the case of the applicant once again, vide order No.RE/O.A.930/2012, dated 27.08.2014, rejected the case of the applicant on the following grounds:

(a) Applicant got 35 points against the minimum 51 points as prescribed by Directorate vide Lr.No.17-17/2010-GDS on 14.12.2010, 09.03.2012 and 13.04.2012 to be eligible for compassionate appointment for GDS post.

(b) Applicant is married and therefore cannot be considered as dependent as per Directorate Lr.No.17-17/2010-GDS dated 09.10.2013.

6. The applicant further submitted that a perusal of the rejection order reveals that the respondents have relied on the orders issued by the Directorate, vide letter No.17-17/2010-GDS on 14.12.2010, 09.03.2012 and 13.04.2012 to be eligible for compassionate appointment for GDS post. The above orders have come into force with effect from the date of issue i.e., from 14.12.2010. The applicant's case is that his father died in harness on 03.04.2010 much before the issuance of the above orders, which have prospective application.

7. The applicant further submitted that he had applied for appointment on compassionate grounds fulfilling all the requirements consequent on the death of his father in harness and in view of the indigent conditions of the family, which was rejected by the CRC vide order dated 27.08.2014, on the



ground that the applicant was married and there he was not considered as dependent on the deceased official. The applicant was married on 14.05.1999, prior to the death of the applicant's father. The applicant was dependent on his father prior to his marriage. On the contrary, further new members were added to the family as dependents. Even otherwise, this stipulation does not apply in the case of the applicant, whose case is prior to the issue of latest circulars and had to be considered as per the scheme available as on 3.4.2010.

8. The applicant further submitted that he filed OA.No.1381/2014 challenging the order dated 27.08.2014, which was disposed of, vide order dated 30.05.2016 by setting aside the order dated 27.08.2014 and remanding the matter back to the respondents to reconsider the claim of the applicant for engagement as GDS MC/MD in accordance with the Circular/instructions issued by the Postal Directorate within eight weeks from the date of receipt of a copy of the order. However, again the 4th respondent issued the impugned order dated 01.08.2016 rejecting the claim of the applicant for compassionate appointment, without considering his case under earlier Scheme on untenable grounds, which is arbitrary, illegal, unwarranted and in violation of Articles 14 and 16 of the Constitution of India. Hence, the OA.

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9. It is the case of the applicant's counsel that the Schemes/instructions prevailing on the date of death of the applicant's father are to be considered without insisting on relative merit points that were prescribed in the later years. In support of his submission, the applicant has relied on the judgment of the Hon'ble Supreme Court in Y.V.Rangaiah & Others v. J.Sreenivasa Rao (1983 (3) SCC 284), dated 24.03.1983, wherein it was observed as under:

"9.The vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules. It is admitted by counsel for both the parties that henceforth promotion to the post of Sub-Registrar Grade II will be according to the new rules on the zonal basis and not on the State-wide basis and, therefore, there was no question of challenging the new rules. But the question is of filling the vacancies that occurred prior to the amended rules. We have not the slightest doubt that the posts which fell vacant prior to the amended rules would be governed by the old rules and not by the new rules.

In view of the above observation of the Hon'ble Supreme Court, the case of the applicant is to be decided as per the existing rules prevailing as on 3.4.2010 on the date of the death of the applicant's father and not the subsequent instructions issued later. But, the respondents applied the Scheme, which is introduced w.e.f. 01.01.2011, which has prospective effect and cannot have retrospective effect.

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10. Per contra, the learned counsel for the Respondents stated that the case of the applicant was processed and rejected twice on the grounds:

(i) Applicant got 35 merit points against the minimum 51 points as prescribed by Directorate, vide letter No.17-17/2010-GDS dated 14.12.2010, 09.03.2012 and 13.04.2012 to be eligible for compassionate appointment for GDS post;

(ii) The case was already considered and disposed of by the CRC held on 10.05.2012.

(iii) The Directorate, vide Lr.No.17-17/2010-GDS, dated 17.12.2015 has revised the existing point based system of assessing indigence and revised the threshold for 'hard and deserving' cases as 36 merit points in place of existing 51 points. However, it is clarified vide Directorate's Lr.No.17-17/2010-GDS, dtd 10.06.2016 that "the revised provisions will be given effect from the date of issue of the instructions in respect of those cases considered in CRC's held after 17.12.2015 and that the cases already settled before 17.12.2015 need not strictly be opened."

(iv) Also, as per Directorate's Lr.No.17-17/2010-GDS dated 09.10.2013, 'a married son is not considered as dependent family member for the purpose of compassionate engagement'. Later, Directorate vide Lr.No.17-39/3/2012-GDS dated 14.01.2015 decided that 'a married son shall also be



considered as one of the dependents of the Sevak for the purpose of compassionate engagement'. However, this provision is applicable from the date of issue of the said order i.e., 14.01.2015, and not applicable to the present Applicant.

11. Heard the learned counsel on both sides and perused the pleadings on record.

12. It is submitted by the respondents that the competent authority, i.e., 2nd respondent vide letter dated 05.07.2016 had directed to issue a detailed reasoned speaking order to the applicant based on the latest rulings/clarifications issued by the Directorate on 10.06.2016 and accordingly, the 4th respondent has issued a detailed reasoned speaking order to the applicant, vide memo dated 01.08.2016. Thus, the contention of the applicant that the impugned order dated 01.08.2016 was issued without considering the case of the applicant properly is not valid as all the rules and guidelines on the subject were rightly taken into consideration while issuing the impugned order. Moreover, it is well settled law that compassionate engagement cannot be claimed as a matter of right and merely working as a Substitute in GDS post/cadre for some time does not confer any right on the applicant to claim for regular selection/absorption in the department.



13. The learned counsel for the Applicant in support of his submissions relied on order of this Tribunal in O.A.No.795/2017, dated 24.10.2018, wherein the applicant therein had worked as a Substitute GDS for considerable length of time and has been pursuing his claim for compassionate appointment since 2014 i.e., the year in which his father died in harness. This Tribunal allowed the said OA observing that *a person who can make an application for compassionate appointment without any time restriction, can as well claim that his case has to be considered as per the extant scheme and guidelines by conducting CRC.*

14. In view of the above, the present OA is allowed and the respondent-authorities are directed to re-consider the case of the applicant for compassionate appointment as per the extant scheme and guidelines on the subject by conducting CRC and pass a reasoned order within a period of three months from the date of receipt of a copy of the order. No order as to costs.

प्रमाणित प्रत
CERTIFIED TRUE COPY

कस संख्या
CASE NUMBER OA 558/2017
निर्णय का तारीख
DATE OF JUDGEMENT 4-9-2019
प्रति तैयार किया गया दिनांक
COPY MADE READY ON 11-9-2019

निर्णय / आदेश
Section Officer / Court Officer
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ/Hyderabad Bench