

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 21.07.2016

DELIVERED ON: 19.08.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Petition No.282 of 2016

J.Usha Nandhini ... Petitioner

-vs-

1.Union of India,
rep.by the Secretary,
Department of Posts,
Dak Bhavan,
Sansad Marg,
New Delhi-110 011

2.The Chief Postmaster General,
Tamil Nadu Circle,
Chennai-600 002.

3.The Superintendent,
Railway Mail Services (RMS)
Chennai Sorting Division,
Chennai-600 008

4.The Registrar,
Central Administrative Tribunal,
Chennai

..Respondents

WRIT Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records of the 4th respondent Tribunal pertaining to its order which is made in O.A.No.975 of 2013, dated 25.08.2014 and quash the same, consequently direct the respondents 1 to 3 to appoint the petitioner on compassionate grounds in any one of the posts, on considering the petitioner's educational qualification.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.D.Simon,C.G.S.C.for R1 to R3

ORDER

(Judgment of the Court was delivered by
A.SELVAM, J)

This writ petition has been filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, calling for the records from the file of the fourth respondent relating to the order passed in O.A.No.975 of 2013, dated 25.8.2014 and quash the same; consequently direct the respondents 1 to 3 to appoint the petitioner on compassionate grounds.

2. The petitioner herein, as applicant, has filed O.A.No.975 of 2013, on the file of the Central Administrative Tribunal, Madras Bench, wherein, it is averred that the father of the applicant has passed away on 16.5.2005, leaving behind him, his wife and three daughters, including the applicant. All the daughters are unmarried, at the time of demise of the father of the applicant. The mother of the applicant has submitted a representation to respondents 1 to 3 to consider appointment to one of her daughters and she has been told that approved list of candidates for appointment on compassionate grounds is pending before the Hon'ble Supreme Court and therefore, her request could not be considered. From 2001 to 2010, respondents 1 to 3 have not taken any steps to make appointment on compassionate grounds to the deserving candidates. In the year 2005 itself, the family of the applicant has not been given any appointment on compassionate ground, even though the applicant and others are in indigent circumstances. The respondents 1 to 3 have wantonly allowed accumulation of cases. On 20.1.2010, a new scheme has been introduced for considering appointment. The applicant is the second daughter of the deceased and she is unmarried. Under the said circumstances, the present application has been filed for getting the relief sought therein.

3. In the counter filed on the side of respondents 1 to 3, it is averred that as per instructions in Postal Directorate's letter dated 20.1.2010, the case of the applicant has been considered on the basis of relative merit points and she scored 59 points. It is false to allege that the family of the applicant is in indigent circumstance. After the demise of the father of the applicant, all benefits have been given. On 1.2.2012, a representation has been received from one of the

sisters of the applicant and the same has been rejected. After a lapse of seven years from the demise of the father of the applicant, the applicant has sent a representation. It is false to say that a case is pending before the Hon'ble Supreme Court with regard to appointment on compassionate grounds. There is no merit in the application and the same deserves to be dismissed.

4. The Central Administrative Tribunal, after considering the rival submissions made on either side, has dismissed the Original Application by way of passing the impugned order and the same has been challenged in the present writ petition.

5. The learned counsel appearing for the writ petitioner has repletedly contended that the father of the applicant has passed away on 16.5.2005 and at the time of his demise, three unmarried daughters, including the applicant, are available; under the said circumstances, 15 points has to be given to the applicant, but under the new scheme, the respondents have erroneously awarded 59 points, in aggregation, to the applicant and the Central Administrative Tribunal, without considering the mistake committed by respondents 1 to 3, has erroneously dismissed the Original Application and therefore, the order passed by the Central Administrative Tribunal, is liable to be set aside.

6. In support of the contention raised on the side of the petitioner, the decision reported in 2015 (7) SCC 412 (Canara Bank and Another vs. M.Mahesh Kumar and Others) is relied upon, wherein, the Hon'ble Supreme Court has held that in a case of compassionate appointment, the financial status of the family of the deceased, after his demise, has to be considered.

7. The Central Administrative Tribunal, Madras Bench, has relied upon the following decisions:

(i) In 1994(4) SCC 138) - Umesh Kumar Nagpal vs. State of Haryana and Others, wherein, the Hon'ble Supreme Court has held that the objective of the compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment and that the authority concerned must consider whether the family of the deceased employee was unable to meet the financial crises.

(ii) In 2012 (1) SLR 528 - Jokhna Devi and another vs. Union of India and Others, wherein also the Hon'ble Supreme Court has taken the similar view.

(iii) In CDJ 2007 SC 1997 - State Bank of India and Others vs. Jaspal Kaul, wherein also the Hon'ble Supreme Court

has taken the same view.

8. Therefore, it is quite clear that for providing appointment on compassionate grounds, financial status of the family of the deceased must be taken into consideration.

9. In the instant case, it is an admitted fact that the father of the petitioner/applicant has passed away on 16.5.2005, leaving behind him, his wife and three unmarried daughters and now two of them have got married. The petitioner says that she is a spinster. Further, it is seen from the records that one of her sisters has made similar attempt and the same has been rejected.

10. The consistent defence put forth on the side of the respondents 1 to 3 is that even as per the new scheme, the petitioner has obtained only 59 points.

11. The learned counsel appearing for the petitioner has contended that if the deceased has left three or more unmarried daughters, 15 points have to be given, but the respondents have given erroneous marks to the petitioner.

12. It is seen from the records that as per the new scheme, dated 21.1.2010, 15 marks can be awarded if the deceased has left three unmarried daughters on the date of his demise. Since the said scheme has come into existence in the year 2010, only from the date of introduction of new scheme, marks can be awarded. Under the said circumstances, the petitioner cannot claim 15 marks, as her father has passed away on 16.5.2005.

13. Further, it is an admitted fact that the father of the petitioner/applicant has passed away on 16.5.2005 and the petitioner/applicant has given representation after a lapse of seven years, i.e. on 24.5.2012. On the ground of lapse also, the claim of the petitioner cannot be granted. The Central Administrative Tribunal, after considering the over all circumstances available on record, has rightly dismissed O.A.No.975 of 2013. In view of the discussion made earlier, this Court has not found any force in the contentions put forth on the side of the petitioner and altogether, the present writ petition deserves to be dismissed.

In fine, this writ petition is dismissed without cost.
The order passed in O.A.No.975 of 2013, by the Central
Administrative Tribunal, is confirmed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msk

To

1.The Registrar,
Central Administrative Tribunal,
(Chennai Bench), Chennai

2.The Chief Post master
Tamil Nadu Circle
Chennai-600 002

3.The Superintendent
Railway Mail Service (RMS)
Chennai sorting Division, Chennai-600 008

4.The Secretary
Union of India, Department of Parts
Dak Bhavan
Sansad Marg,
New Delhi 110 011

+1 cc to Dr.P.Simon (GSC Advocate sr 47392

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W.P.No.282 of 2016

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