

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE N.AUTHINATHAN

Writ Petition No.34693 of 2016

W.M.P.No.29883 of 2016

C.Anbu Sundaram Petitioner

vs.

1. Union of India rep by
The Post Master General,
Chennai City Region,
Chennai 600 002.
2. The Senior Superintendent of Post Office,
Vellore Division,
Vellore 632 001.
3. The Assistant Superintendent of Post Office,
Vellore East Sub Division,
Vellore 632 009.
4. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai. Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the order, dated 02.08.2016 in O.A.No.310/01686/2015, passed by the 4th respondent, quash the same and consequently, direct the respondents to treat the appointment of the petitioner on 15.02.2013 as regular compassionate appointment with all consequential benefits.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.V.Balasubramanian,
R1 to R3 Central Government Standing Counsel

ORDER

(delivered by S.MANIKUMAR, J)

Material on record discloses that petitioner's father, while working as GDS MD in Maruthavallipalayam Branch Office, died in harness. The writ petitioner was given compassionate appointment, on provisional basis, for the period from 15.02.2013 to 14.02.2014 or till regular appointment was made. Vide order, dated 02.12.2013, services of the writ petitioner was terminated. Challenging the same, he filed O.A.No.1683 of 2013. The Tribunal granted interim stay of the order of termination, dated 02.12.2013, till 19.12.2013. Based on the said interim order, the writ petitioner was allowed to continue in service. In the meantime, his claim for compassionate appointment was processed, and rejected by the Circle Relaxation Committee and based on such rejection, the Assistant Superintendent of Post Office, Vellore East Sub Division, Vellore, 3rd respondent herein, issued a notification, dated 09.12.2013, to fill up the post, on regular basis. The said notification was challenged in O.A.No.36 of 2014.

2. Material on record further discloses that the notification, dated 09.12.2013, by the Department was withdrawn. Pending disposal of O.A.No.1683 of 2013 and O.A.No.36 of 2014, the Assistant Superintendent of Post Office, Vellore East Sub Division, Vellore, 3rd respondent herein, issued another notification, dated 02.11.2015, calling for applications from eligible candidates, for engagement, as Gramin Dak Sevak Mail Deliverer, Kothamangalam Branch Post Office, a/w. Virinjipuram SO 632 104. The respondents have opposed the prayer, to quash the said notification.

3. Adverting to the rival submissions, vide order, dated 02.08.2016, the Tribunal, held that the Original Application is devoid of merits and dismissed the same. However, taking note of the revised order of Ministry of Communications & IT, Department of Posts, dated 30.11.2015, with regard to compassionate appointment that married son is also eligible for compassionate appointment, the Tribunal, left the issue open to the respondents, to consider the case of the writ petitioner.

4. Not satisfied with the discretion, left open to be exercised by the respondents, for compassionate appointment, petitioner has filed the instant writ petition, to quash the order made in O.A.No.310/01686/2015, dated 02.08.2016 and consequently prayed for a direction to the respondents to treat the appointment of the writ petitioner on 15.02.2013, as regular compassionate appointment, with all consequential benefits.

5. On this day, when the matter came up for hearing, both the learned counsel appearing for the parties submitted that by virtue of the interim orders, granted by the Central Administrative Tribunal, Madras Bench, Chennai, the writ petitioner is continuing in service, as ED Delivery Agent/GDS. Inviting the attention of this Court to the letter, dated 14.01.2015, of the Ministry of Communications & IT, Department of Posts (GDS Section), New Delhi, addressed to all the Chief Postmasters General, Mr.M.Gnanasekar, learned counsel for the petitioner submitted that clarifications have been issued, to the effect that the married son, can also be considered, as one of the dependants of the deceased, GDS MD, for the purpose of compassionate appointment and that the abovesaid clarification, dated 14.01.2015, applies to those cases, considered and rejected. In sum and substance, he submitted that the clarification, dated 14.01.2015, is retrospectively applied.

6. In the light of the above clarification, dated 14.01.2015, Mr.M.Gnanasekar, learned counsel for the petitioner submitted that notwithstanding the prayer sought for in the writ petition, it is suffice to issue a direction to the Circle Relaxation Committee, Chennai, to consider the case of the writ petitioner, based on the Circular, dated 14.01.2015, by fixing a reasonable time. He further submitted that the writ petitioner be permitted to submit all necessary documents to the Circle Relaxation Committee and that the respondents may also be directed to place all the relevant records before the said Committee, so as to arrive at a reasonable decision.

7. Mr.V.Balasubramanian, learned counsel for respondents 1 to 3 also acknowledges the submission of the learned counsel for the petitioner, for the limited relief.

8. Placing on record, consent of the learned counsel appearing for the parties to the restricted relief, we are not inclined to delve into merits of challenge. In the light of the above, the Circle Relaxation Committee, Chennai, is directed to consider the case of the petitioner, taking note of the clarification, dated 14.01.2015, stated supra. The petitioner is permitted to submit all necessary documents to the Committee, through the Senior Superintendent of Post Office, Vellore Division, Vellore 632 001, the 2nd respondent herein, the appointing authority. He is also directed to place all the relevant service records to the Circle Relaxation Committee. Submission and production of the records, as the case may be, be done, within a period of two weeks, from the date of receipt of a copy of this order. Circle Relaxation Committee, Chennai, is directed to pass orders, in the next meeting. Pending disposal of the Committee's decision, the writ petitioner need not be disengaged.

9. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

skm

To

1. The Post Master General,
Union of India
Chennai City Region,
Chennai 600 002.
2. The Senior Superintendent of Post Office,
Vellore Division,
Vellore 632 001.
3. The Assistant Superintendent of Post Office,
Vellore East Sub Division,
Vellore 632 009.
- 4.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.
5. The Circle Relaxation Committee
Chennai (Postal Department)

1 cc to MR.V. Balasubramanian, Advocate, Sr. 64045
1 cc to Mr.M. Gnanasekar, advocate, S.r 64695

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