

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.5497 of 2017

- 1.Union of India, rep.by
The Chief Postmaster General,
Anna Salai, Chennai-600 002.
- 2.The Senior Superintendent of Post Offices,
Chennai City South Division,
Chennai-600 017.
- 3.The Assistant Superintendent of Post Offices,
Sub-Division II,
Chennai City South Division,
Chennai-600 017. .. Petitioners

Vs.

- 1.S.Balaji
- 2.Central Administrative Tribunal,
rep.by its Registrar,
Madras Bench,
Chennai-600 104. .. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for the records of the second respondent and quash the order dated 12.07.2016 in O.A.No.310/00531/2015, as unsustainable.

For Petitioners : Mr.V.P.Sengottuvel,
Sr.Central Govt.Standing Counsel
For Respondents : Mr.R.Malaichamy for R1

ORDER

(Order of the Court was made by
HULUVADI G.RAMESH, J.)

This writ petition has been filed against the order passed by the second respondent-Tribunal dated 12.07.2016 in O.A.No.310/00531/ 2015.

2.The first respondent's father by name V.Suriyanarayanamurthy, died in harness on 01.07.1993 while working as a Postman. Subsequently, the first respondent's mother was offered appointment as Lower Division Clerk, on compassionate ground. Since she was unwell and was unable to accept the appointment, she sought compassionate appointment for her son, but her request was turned down. But, keeping in view the penury of the first respondent, the Department engaged the first respondent in the leave vacancies that arose from time to time. Even though he was engaged in the leave vacancies, he was not offered compassionate appointment. The first respondent filed an application before the second respondent-Tribunal in O.A.No.310/00531/2015 praying for a direction to grant compassionate appointment to him, on the ground that similarly placed persons have been granted such benefit. It was argued on behalf of the first respondent before the Tribunal that his case was rejected by the Department on the ground that the Circle Relaxation Committee had not recommended his case under the Relative Merit Point System (RMPS) and that the Department ought not to have placed his case before the said Committee for consideration, since the said scheme came into effect only in the year 2010, but the fact remained that his family had already been assessed to be in penury, when compassionate appointment was first offered to his mother.

3.The Tribunal, on consideration of the factual matrix of the case, directed the Department to reconsider the case of the first respondent for compassionate appointment in terms of the provisions contained in the scheme in vogue at the time when the first respondent had become eligible for compassionate appointment, taking due note of the fact that the first respondent's mother had already been offered compassionate appointment on being satisfied with the indigent condition of the family at the relevant point of time and to pass a speaking and reasoned order within a period of three months from the date of receipt of the order. Challenging the said order, the present writ petition has been filed by the Department.

4.The learned senior standing counsel appearing for the petitioners submitted that the case of the first respondent was considered and he could not be accommodated in the 5% quota fixed for the said purpose. He also submitted that the persons who have been accommodated have more than 50 merit points, whereas the first respondent was having only 41 merit points, to come within the said 5% quota.

6.Heard the learned Standing Counsel appearing for the petitioners and the learned counsel for the first respondent and perused the materials available on record.

7.It is seen that the first respondent's father died in harness on 01.07.1993 and subsequently the first respondent's mother was offered compassionate appointment, but she did not accept the same on health grounds and requested the authorities to grant compassionate appointment to her son. It is seen from the records that subsequently, the first respondent's mother had also died on 23.05.2011. Even though, the Department has responded to the first respondent on his representations, but however rejecting his request, the fact remains that the first respondent's family is in indigent circumstances and there is no dispute with regard to that aspect.

8.Taking into consideration the factual matrix of the case, particularly taking into consideration the fact that the first respondent's mother was offered compassionate appointment on the ground that the family is in indigent circumstances, the appellant-Department shall consider the case of the first respondent for compassionate appointment sympathetically by placing the entire papers before the Circle Relaxation Committee, and proceed in accordance with law.

9.The writ petition is disposed of accordingly. No costs.

/sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

KM
To
The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai-600 104.

+1 CC to Mr. R. Malaichamy, Advocate Sr.No. 77905
+1 CC to Mr. V.P. Sengothuvel , Advocate Sr.No. 77881

W.P.No.5497 of 2017

MD: 27/11/2017