

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.P.Nos.14225 and 16447 of 2017
and
WMP.Nos.15417 and 17789 of 2017

- 1.The Chief Post Master General
Tamil Nadu Circle,
Chennai - 600 002.
- 2.The Post Master General
Southern Region (TN)
Madurai-625 002.
- 3.The Senior Superintendent of Post Offices,
Tuticorin Division,
Tuticorin - 628 008. ... Petitioners in
both WPs
- vs.
- 1.A.Mariappan ... 1st respondent
in WP.14225/17
- K.Rajan ... 1st respondent
in WP.16447/17
- 2.Central Administrative Tribunal,
rep. by its Registrar,
Madras Bench,
Chennai - 600 104. ... 2nd Respondent in
both WPs

Writ Petitions filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari to
call for the records of the second respondent and quash the
orders dated 01.06.2016 in MA.No.310/00240/2016 in O.A.No.899 of
2012 and MA.No.310/00241/2016 in O.A.No.897 of 2012
respectively.

For Petitioners : Mr.V.P.Sengottuvel
For R1 : Mr.D.Selvam for M/s.Lesi Saravanan
R2 TRIBUNAL

COMMON ORDER

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

Since the issue involved in both these writ petitions is similar, they are jointly taken up for consideration and decided by this common order.

2.Challenging the correctness of the orders dated 01.06.2016 passed in MA.Nos.310/00240/2016 and 310/00241/2016 by the second respondent herein, viz., Central Administrative Tribunal, Madras Bench ('the Tribunal' for brevity), the present writ petitions have been filed by the Chief Post Master General, Chennai; the Post Master General, Southern Region, Madurai; and the Senior Superintendent of Post Offices, Tuticorin Division.

3.According to the first respondents herein, one V.Andy, father of the first respondent in WP.No.14225 of 2017 and V.Kaliratnam, father of the first respondent in WP.No.16447 of 2017, had worked in the third respondent Post Office and had died on 28.11.1999 and 27.09.2008 respectively, while in service. Since the first respondents herein being the son of the deceased, sought compassionate appointment, which was rejected by the third respondent herein. Challenging the rejection orders, the first respondents herein filed respective O.A.Nos.899/2012 and 897/2012 before the Tribunal, which, by separate orders dated 05.06.2014, allowed the said Original Applications and quashed the rejection orders and remitted the matter to the petitioners herein to consider/reconsider the case of the first respondents herein and communicate the result thereof in a well reasoned order to them at an early date. Since the orders of the Tribunal were not complied with within the stipulated time, the first respondents herein filed the aforesaid Miscellaneous Applications seeking a direction to the petitioners herein to execute the orders dated 05.06.2014 passed by the Tribunal in their respective Original Applications.

4.By the orders impugned in the present writ petitions, the Tribunal disposed of the Miscellaneous Applications, the relevant paragraphs of which, read as follows:

"In view of the decision of the Hon'ble Apex Court in the case of Canara Bank and another v. M.Mahesh Kumar and others in CA Nos.260, 266 & 267 of 2008 while considering the candidature of a person for compassionate appointment the then existed scheme as on the date of death of the employee has to be applied and as such, we are of the view that the following direction could be given in this matter:

"The applicant (first respondent herein) is given liberty to make a fresh representation based on the decision of the Hon'ble Apex Court cited supra within a period of one month from the date of receipt of a copy of this order; whereupon in the ensuing Circle Relaxation Committee, the same shall be placed by the respondent concerned (petitioner herein) for considering the candidature of the applicant (first respondent herein) in the light of the Hon'ble Apex Court's decision in the case of Canara Bank and another v. M.Mahesh Kumar and others in CA Nos.260, 266 & 267 of 2008 and accordingly, the respondent (petitioner herein) shall communicate the result to the applicant (first respondent herein)."

Feeling aggrieved over the orders of the Tribunal, the postal department have come up with the present writ petitions.

5.Heard the rival contentions of the parties and perused the materials placed before this Court.

6.Admittedly, the fathers of the first respondents herein died on 28.11.1999 and 27.09.2008 respectively, while serving in the postal department. The third petitioner rejected the applications filed by the first respondents, seeking compassionate appointment, on the following grounds:

- (a) Less indigent as per Relative Merit Points.
- (b) Non-availability of 5% Direct Recruitment Vacancy.

However, the Tribunal quashed the aforesaid rejection orders and remitted the matter to the petitioners herein to consider/reconsider the case of the first respondents herein. Since the said direction was not adhered to, the first respondents herein preferred Miscellaneous Applications, to

execute the orders of the Tribunal. By the impugned orders, the first respondents were directed to make fresh representations and on filing such representations, the same should be considered in the light of the decision of the Hon'ble Supreme Court reported in (2015) 7 SCC 412 (Canara Bank and another v. M.Mahesh Kumar).

7.It is the contention of the petitioners herein that for deciding the claims for compassionate appointment against the ceiling of 5% of direct recruitment quota of vacancies, in an effective manner, the Directorate of Posts, by letter dated 20.01.2010, prescribed a system of allocation of points to various attributes, such as, family pension, terminal benefits, monthly income of earning members, movable and immovable property, number of dependents, number of unmarried daughters, number of minor children and left over service etc., with 15 grace points for the widow of the deceased. Following the said guidelines issued by the Directorate, all the cases were re-examined including the first respondents and relative merit points were given and the same were placed before the Circle Relaxation Committee, which, in turn, considered the same and rejected the case of the first respondents herein on the ground that they had not come within the zone of consideration, as per the merit points secured against 5% of vacancies under direct recruitment. Accordingly, the claim of the first respondents herein seeking compassionate appointment was rejected. To fortify the said contention, learned standing counsel for the petitioners produced the files relating to first respondents herein.

8.The Hon'ble Supreme Court in the case of Canara Bank v. M.Mahesh Kumar (cited supra), held that the claim of compassionate appointment under a scheme of a particular year cannot be decided based on subsequent scheme that came into force much after the claim. Applying the same, the Tribunal disposed of the Miscellaneous Petitions filed by the first respondents herein by directing them to make fresh representations and on making such representations, the petitioner concerned was directed to consider/reconsider the same in the light of the aforesaid decision of the Hon'ble Supreme Court and communicate the result to the first respondents herein.

9.We are of the opinion that the object of compassionate appointment is to mitigate hardship of the family of bread winner and appointment should be provided immediately to relieve the family of the deceased Government servant from financial destitution and to help it get over the emergency. Therefore, having regard to the facts and circumstances of the case and taking note of the observation of the Hon'ble Supreme Court in

the decision cited supra, we do not find any reason to interfere with the orders so passed by the Tribunal. Accordingly, the orders of the Tribunal are hereby, confirmed.

10.At this juncture, it is represented by the learned counsel for the first respondents herein that pursuant to the orders dated 01.06.2016, passed by the Tribunal, the first respondents herein have already submitted their representations to the petitioner concerned.

11.In view of the above, the petitioner concerned is directed to consider the respective representations of the first respondents herein in the light of the decision of the Hon'ble Supreme Court in the case of Canara Bank and another v. M.Mahesh Kumar and Others in CA Nos.260, 266 and 267 of 2008 [(2015) 7 SCC 412] i.e., consider the claim of the first respondents herein seeking compassionate appointment and pass orders, in accordance with law and as per the scheme in existence as on the date of death of their respective fathers. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

12.Both the Writ Petitions are disposed of as indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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

+2cc to Mr.V.P.SENGOTTUVEL Advocate,
S.R.No. 78944 & 78945

W.P.Nos.14225 and 16447 of 2017

SR(CO)
TR(19/01/2018)