

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM

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

W.P.No.19896 of 2014

P.Gopalakrishnan

.. Petitioner

Vs.

1.The Registrar,
Central Administrative Tribunal,
Madras Bench,
High Court Campus,
Chennai-600 104.

2.Union of India,
rep.by the Chief Postmaster General,
Tamil Nadu Circle,
Chennai-600 002.

3.The Postmaster General,
Chennai City Region, Chennai-600 002.

4.The Senior Superintendent of Post Offices,
Vellore Division, Vellore-632 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for the concerned records relating to the order dated 02.07.2014 given in O.A.No.149 of 2011 passed by the first respondent and quash the same.

For Petitioner : Mr.S.Ramaswamyrajarajan

For Respondents : Mr.V.Venkatesan,
Sr.Central Govt.Standing Counsel
for R2 to R4

ORDER

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

This writ petition has been filed against the order passed by the first respondent-Tribunal dated 02.07.2014 in O.A.No.149 of 2011.

2.The petitioner's father, who was working as Branch Postmaster at Elavampadi Branch Post Office, died on 23.03.2008 while in service. Taking into consideration the indigent conditions of the family of the deceased employee, the third respondent herein appointed the petitioner as GDS Branch Postmaster, Elavampadi Post Office by order dated 02.05.2008 on provisional basis for a period of one year from 07.05.2008 to 06.05.2009 or till regular appointment is made, whichever is earlier. The petitioner worked in the said post till 16.08.2010 on which date he was terminated from service by way of a verbal order. The petitioner made an appeal to the second respondent by way of a representation dated 03.09.2010 requesting for re-appointment and to consider him for regular absorption as GDS Branch Postmaster on compassionate ground, and the same has been rejected by an order passed by the fourth respondent herein on 22.10.2010, wherein it is stated that the case of the petitioner for compassionate appointment was not recommended by the Circle Relaxation Committee in view of the reason that the deceased employee was involved in a case of non-credit and belated credit in Recurring Deposit accounts, while in service.

3.Aggrieved by the same, the petitioner filed an application before the Tribunal in O.A.No.149 of 2011 and the same was dismissed by the Tribunal by the impugned order dated 02.07.2014. Hence this writ petition.

4.The learned counsel for the petitioner has submitted that the Tribunal has taken a wrong view in considering the case of the petitioner by stating that as per the Provisional Appointment Order the petitioner was liable to be terminated at any time without any notice, whereas the fact remains that even after expiry of the one-year period specified in the Provisional Appointment Order, the petitioner was allowed to continue in the same post, ie., from 07.05.2009 to 16.08.2010, even though the terms stated in the order came to an end on 06.05.2009 itself. He further submitted that thereafter the service of the petitioner was terminated by way of a verbal order without assigning any reason, notwithstanding the fact that he had completed almost 3 years of continuous service and hence, he ought to have been absorbed in the said post.

5.A counter affidavit has been filed on behalf of the respondents 2 to 4 herein, in which it is stated that even though provisional appointment was ordered for a period of one year and it came to an end on 06.05.2009, since the claim for compassionate appointment was not yet decided at that time, the fourth respondent engaged the petitioner as a stopgap arrangement from 07.05.2009 and the said arrangement was not by way of any written order. Further, since the said arrangement was not approved by the competent authority, the same was

dispensed with by order dated 12.08.2010. It is also stated that no show cause notice was necessary as the provisional appointment ordered itself was with a specific condition that it would be terminated without any notice or assigning any reason. It is also further stated that the petitioner's father was involved in the case of Recurring Deposit frauds and thus exhibited unsatisfactory performance and that the Circle Relaxation Committee had arrived at a decision on the claim based on appreciation of full facts which cannot be questioned. Reiterating the submissions made in the counter affidavit, the learned Standing Counsel appearing for the respondents 2 to 4 has submitted that the order passed by the Tribunal has to be sustained and this writ petition has to be dismissed.

6. Heard the learned counsel on either side and perused the materials available on record.

7. It is seen from the records that the petitioner's father, who was working as Branch Postmaster at Elavampadi Branch Post Office, died on 23.03.2008 while in service. Taking into consideration the indigent conditions of the family of the deceased employee, the third respondent herein appointed the petitioner as GDS Branch Postmaster, Elavampadi Post Office by order dated 02.05.2008 on provisional basis for a period of one year from 07.05.2008 to 06.05.2009 or till regular appointment is made, whichever is earlier. The petitioner worked in the said post till 16.08.2010 on which date he was terminated from service by way of a verbal order. The petitioner made an appeal to the second respondent and the same was rejected by an order passed by the fourth respondent herein on 22.10.2010, wherein it was stated that the case of the petitioner for compassionate appointment was not recommended by the Circle Relaxation Committee in view of the reason that the deceased employee was involved in a case of non-credit and belated credit in Recurring Deposit accounts, while in service. On an application made before the Tribunal, the Tribunal passed the impugned order rejecting the claim of the petitioner.

8. In the impugned order, the Tribunal observed that the deceased employee, ie, the petitioner's father was under put off duty from 09.03.1994 to 27.11.1995 in connection with a case of non-credit of Recurring Deposits amounting to Rs.600/- and belated credit of Rs.15,555/- in RD accounts for which he was imposed with a penalty of debarring from appearing for Departmental Examinations for 3 years. Further, while engaging the petitioner, it was clearly mentioned that the engagement was purely provisional and would be terminated at any time without assigning any notice. Further it is observed that even though provisional appointment was ordered for a period of one year and it came to an end on 06.05.2009, since the claim for compassionate appointment was not yet decided at that time, the

fourth respondent engaged the petitioner as a stopgap arrangement from 07.05.2009 and the said arrangement was not by way of any written order.

9.It is seen that the petitioner's father /deceased employee was under put off duty from 09.03.1994 to 27.11.1995 in connection with a case of non-credit of Recurring Deposits amounting to Rs.600/- and belated credit of Rs.15,555/- in RD accounts for which he was imposed with a penalty of debarring from appearing for Departmental Examinations for 3 years. During the said period which lasted for about 20 months, ie., during the period of enquiry, neither his service was terminated nor he had been imposed with a major penalty. Further, no materials have been placed before the Tribunal to show that the petitioner was getting income from other sources. In the absence of any concrete evidence to prove that the petitioner was getting income from other sources, it cannot be said that the petitioner was not in indigent circumstances.

10.In view of the above stated circumstances, the impugned order passed by the Tribunal is set aside and the Circle Relaxation Committee is directed to re-consider the application of the petitioner for compassionate appointment, after properly ascertaining as to whether at the relevant point of time, the petitioner was in indigent circumstances or not, supported by relevant documentary evidence, and file a report to that effect before the fourth respondent and based on the report, the fourth respondent shall pass appropriate order in accordance with law. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

11.With the above observations and directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

KM

To

1.The Registrar,
Central Administrative Tribunal,
Madras Bench,
High Court Campus,
Chennai-600 104.

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

3.The Postmaster General,
Chennai City Region,
Chennai-600 002.

4.The Senior Superintendent of Post Offices,
Vellore Division, Vellore-632 001.

+1cc to Mr.V.Venkatesh, Advocate SR.No.86784

+1cc to Mr.S.Ramaswamy, Advocate SR.No.87203

W.P.No.19896 of 2014

NM(CO)
GN(29/12/2017)



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