

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.15494 of 2017
Date of Decision: July 18, 2017

Union of India & others

...Petitioners

Versus

Sakuntala Devi & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Namit Kumar, Advocate,
for the petitioners.

AMIT RAWAL, J.

Petitioner-Union of India has challenged the order dated 5.1.2017 (Annexure P-4) rendered by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short "CAT"), whereby Original Application filed by private respondent Nos.1 and 2, has been allowed while quashing the order dated 8.2.2016 (Annexure A-3), with a further direction to the petitioners to re-consider the case of the applicant regarding the entitlement of merit points.

The facts leading to the filing of the present writ petition reveal that Ghanshyam Dass, who was working as EDDA/R (now GDS) Nachroan Branch Post Office in account with Radaur SO in Ambala Division, while in harness, died leaving behind wife and a son. Widow-Sakuntla Devi (respondent No.1) submitted an application for appointment on compassionate ground for his son-respondent No.2 Munish Kumar.

Mr.Namit Kumar, learned counsel representing the petitioner-

Union of India submitted that in pursuance to the aforementioned application, the Department, vide letter dated 9.10.2013, did not consider the married son to be dependent on GDS and apprised respondent No.1 for considering the case of appointment on compassionate ground for herself, if she so desired. In response thereof, respondent No.1 (widow) submitted an application for appointment, but during the interregnum, vide letter dated 11.3.2015, the Department had clarified that the married son can be considered for engagement on compassionate grounds. Resultantly, respondent No.2 (married son) was considered for relaxation in the meeting held on 28.9.2015 by the Circle Relaxation Committee and the case was rejected vide letter dated 30.9.2015 (Annexure A-1). The said order was challenged by filing Original Application No.060/00300/2016, which was contested by taking numerous objections inasmuch as that the respondent-department had introduced a system of allocation of points to various attributes to lay down a transparent criteria for considering the requests for engagement on compassionate grounds and all these admissible benefits were paid to the dependents of the deceased, in essence an amount of Rs.60,000/- and Rs.56,967/- towards ex-gratia and CGEIS were paid.

He further submitted that vide order dated 5.1.2017, the CAT has erroneously allowed the application while quashing the order dated 8.2.2016 (Annexure A-3), which was also annexed with the petition, whereby Superintendent of Post Offices, Ambala Division, Ambala, informed respondent No.1 about rejection of the case for appointment on compassionate ground and, thus, the order of the CAT is not sustainable. He further submitted that the CAT has erroneously observed that the widowed daughter has to be treated at par with a divorced daughter for the purpose of

re-marriage and, therefore, prescribed points should have been allocated in the case of family of Ghanshyam Das for assessing indigence. However, respondent No.1, while submitting the application, had shown only two dependents. Even the factum of her son studying in 10+2 was not submitted. The policy does not envisage or prescribe any points for re-marriage of widowed daughter, though vide letter dated 9.10.2013 (Annexure R-1), divorced daughter returning to the family with children will be entitled for points/scores for unmarried liability for her subsequent marriage. In other words, the scores are given to the case on the attributes applicable on death of the GDS. The Department had to consider the case on the basis of the particulars mentioned in the application dated 6.5.2015 and in view of such particulars, respondent No.2, the married son, was/is not entitled to any more points under the scheme. Clause 12 of the Instructions dated 12.6.2013 (Annexure P-5), extracted in the writ petition, had not been noticed and, thus, urged this Court for setting-aside the impugned order.

We have heard the learned counsel for the petitioner and appraised the paper book.

The CAT, vide impugned order dated 5.1.2017 (Annexure P-4) has not ordered for appointment of respondent No.2 on compassionate ground, but only passed a direction to re-consider the case of the applicant. For the sake of brevity, the operative part of the order reads thus:-

“9. I have given careful consideration to the matter. Although, Ms.Nisha Rani, daughter of the deceased employee was married at the time when Sh.Ghanshyam Das passed away, but she had been widowed subsequently and was now dependent on her parental family. For the purpose of re-marriage, she has to be treated at par with a divorced daughter and prescribed points should have been given in the case of the

family of Sh.Ghanshyam Das for assessing indigence. Moreover, the applicant acquired the qualification of 10+2 in June 2015, while his case for appointment on compassionate grounds was considered in Sept.2015. As per the claim of learned counsel for the applicant, the applicant had intimated the respondent Department regarding his enhanced qualification, but the same was not taken into account while considering the case of the applicant.

10. In view of the discussion above, it is felt that the ends of justice would be met with direction to the respondent department to reconsider the case of the applicant regarding entitlement of merit points on account of his widowed sister being dependent on the parental family and also on account of his own qualification of 10+2. Accordingly, order dated 08.02.2016 (Annexure A-3) is quashed and respondents are directed to reconsider the case of the applicant in the next meeting of the Circle Relaxation Committee. The OA is disposed of accordingly.”

The observations of the CAT are based upon the consideration that intimation regarding attaining of enhanced qualification has been given subsequent to filing of the application, which has not been taken into account. Nothing prevented the Department to re-consider the case of the private respondents, instead they chose to challenge the same. They could have considered all the points as indicated in the aforementioned order and pass a fresh order after awarding opportunity of hearing to the private respondents.

In our view, the order of the CAT is most innocuous. The petitioners have been directed only to re-consider the case regarding entitlement of merits points, particularly on account of the fact that widowed sister can be dependent on the parental family or not and as well as enhancement of the qualification of 10+2. The CAT has adverted to all

the points raised by the respective parties.

We do not find any illegality and perversity in the impugned order. The same does not call for any interference. Resultantly, the writ petition is dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**July 18, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No