

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.7248 of 2016

R.Suresh

... Petitioner

-vs-

1. The Union of India
rep.by the Director (Staff)
Ministry of Communications and IT,
Department of Posts,
Dak Bhavan,
Parliament Street, New Delhi-110 001.
2. The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai-600 002.
3. The Superintendent of Post Offices,
Vriddhachalam Division,
Vriddhachalam-606 001.
4. The Postmaster,
Kallakkurichi HO,
PIN 606 202.
5. The Registrar,
Central Administrative Tribunal,
Chennai-600 104.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the fifth respondent Tribunal, pertaining to its order which is made in O.A.No.871 of 2012 dated 23.07.2014 and quash the same and consequently to direct the respondents 1 to 4 to appoint the petitioner on compassionate grounds in any one of the post on considering his educational qualifications.

For Petitioner :: Mr.R.Malaichamy

For Respondents :: Mr.S.Janarthanan,
Central Govt.Standing Counsel
for RR1 to R4
R5-Tribunal

ORDER
(Made by HULUVADI G.RAMESH, J.)

The father of the petitioner died in harness on 03.03.2008 while he was working as Postal Assistant in the office of the fourth respondent, leaving behind him his wife, a daughter and a son (the petitioner herein). At the time of the death of his father, the petitioner's educational qualification was B.Pharm (degree). He was shouldering the entire family by borrowing loans from neighbours. It is the case of the petitioner that the terminal benefits received after the death of his father, were spent towards clearing of loans received by the deceased, when he was alive for his medical treatment and for the construction of house. It is his further case that the educational loan which was borrowed from the bank was also compelling the petitioner to repay the amount with interest and penal interest.

2.With the above background, the petitioner's mother made a representation to the authorities seeking appointment on compassionate grounds, but the same was rejected by the third respondent by letter dated 29.06.2012. Hence, the petitioner filed an application in O.A.No.871 of 2012 before the Central Administrative Tribunal, Madras Bench, Chennai, praying to set aside the order dated 29.06.2012 and to appoint the petitioner on compassionate grounds in any of the posts in the fourth respondent office, considering his educational qualification with all attendant benefits. Considering the quantum of terminal benefits, family pension received, number of dependants and the overall low RMPs obtained by the petitioner, the said prayer was rejected by the Tribunal, by order dated 23.07.2014. The said order is under challenge in this writ petition.

3.The learned counsel for the petitioner has submitted that the family pension received by the petitioner's family is around Rs.6,500/-. He also submitted that the said amount is not even sufficient to eke out the livelihood of the family. He further submitted that the petitioner's family is in a rented house and he needs a substantial amount to pay rent and thereafter, only a meagre sum remains; that the terminal benefits received after the death of the petitioner's father were spent towards clearing of loans received by the deceased, when he was alive for his medical treatment and for construction of house. The counsel also submitted that the educational loan which was borrowed from

the bank was also compelling the petitioner to repay the amount with interest and penal interest. Thus, the learned counsel submitted that it cannot be stated that the petitioner's family is not in indigent circumstances. Stating so, he prayed for quashing the impugned order and for a direction to grant compassionate appointment to the petitioner.

4.The learned standing counsel for the respondent Department has submitted that the petitioner's family is receiving family pension of Rs.6310/- every month and further the terminal benefits given to the widow was Rs.4,46,886/-. The petitioner has got only 43 points as against the last selected candidate in PA/SA cadre getting 69 points and hence, he was not recommended for appointment on account of being less indigent as per Relative Merit Points and want of adequate number of vacancies to accommodate him. Further, the appointment on compassionate grounds was limited to 5% of the direct recruitment vacancies. He submitted that the manner in which terminal benefits were spent is not the criteria and that compassionate appointment is not a vested right which can be exercised at any point of time. The Tribunal has passed a well-considered order which does not require any interference in the hands of this Court, according to the learned standing counsel for the respondent-Department.

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

6.It is seen that the petitioner has got only 43 points as against the last selected candidate in PA/SA cadre getting 69 points. Hence, he was not recommended for appointment on account of being less indigent as per Relative Merit Points and want of adequate number of vacancies to accommodate him. Further, the appointment on compassionate grounds was limited to 5% of the direct recruitment vacancies, as a policy decision. Considering the quantum of terminal benefits, family pension received, number of dependants and the overall low RMPs obtained by the petitioner, the prayer of the petitioner was rejected by the Tribunal, by way of passing the impugned order. It has been observed by the Tribunal that even if the case of the petitioner is considered in future, that would only be an empty formality.

7.We are not inclined to interfere with the findings given by the Tribunal in the impugned order, as the same are based on facts. But, considering the submission made by the learned counsel for the petitioner that the petitioner's family is really in penury, we leave it to the discretion of the authorities, to examine the said aspect and consider the case of the petitioner to any of the lower posts, if available.

8.The writ petition is dismissed with the above observation.
No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Director (Staff)
Union of India,
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PIN 606 202.
5. The Registrar,
Central Administrative Tribunal,
Chennai-600 104.

+1cc to Mr.R.Malaichamy, Advocate, S.R.No.46693
+1cc to Mr.S.Janarthanan, Advocate, S.R.No.46522

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VBA(CO)
CS/01/08/18

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