

THE HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.40326 of 2017

ORDER: (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner has challenged the order dated 01.05.2017 passed in O.A.No.20/1103 of 2014 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, dismissing the application filed by him.

2. The brief facts of the case are that the father of the petitioner, while working as Group-D employee in Head Post Office, Eluru, West Godavari District, expired in harness on 04.07.2007 leaving behind the following dependants;

1	Smt P. Subba Lakshmi	48 years	Wife
2	P.V.Narayana	30 years	1 st son-SSC passed-Physically handicapped-Married with two children-One son and one daughter are dependants.
3	Smt P. Chamundeswari	26 years	Daughter of the deceased-Husband deserted and dependent on the deceased family.
4	P. Rajendra Prakash	20 years	2 nd son-B.Com., discontinued-unmarried and unemployed.

It is stated that after the death of the father of petitioner, the 4th respondent while expressing regret for the death had informed the mother of petitioner that there is a provision under the Rules to offer employment to one of the dependants eligible in the family of the deceased employee and advised to utilize the said facility depending

on her necessity and eligibility vide memo No.B9/Relax/PC, dated 24.07.2007. Accordingly, the petitioner submitted application for compassionate appointment in the month of August, 2007. However, the same was rejected vide communication dated 20.05.2014 stating as under:

“All the (41) cases in the cadre of JA/PAPO/SARMS/PA/SBCO/LDC, (104) cases in the cadre of Postman, (38) cases in the cadre of MTS which were not recommended by the CRC, since the vacancies are restricted to 5% of the total DR vacancies are prescribed by Directorate and also on the ground that they did not merit the selection as per relative merit points communicated by the Directorate”.

3. Learned counsel appearing on behalf of the petitioner submits that while considering the case of the petitioner on compassionate appointment, the respondents had restricted the vacancies to 5% of the total DR vacancies prescribed by the Directorate.

4. On the other hand, learned Assistant Solicitor General appearing on behalf of the respondents submits that the case of the petitioner was rejected on two grounds; one is due to restriction of 5% of the total DR vacancies and another is that the petitioner was not having educational qualifications as per relative merit points communicated by the Directorate and therefore, the present writ petition has no merit and deserves to be dismissed.

5. It is not in dispute that the petitioner acquired educational qualification of matriculation, which is required for the post in question. We note that vide communication dated 20.05.2014, it is specifically mentioned that the vacancies were restricted to 5% of the total DR vacancies and the petitioner has not acquired the

educational qualification as per the relative merit points communicated by the Directorate.

6. Similar issue came up before this Court in W.P.No.5437 of 2017 and the same was disposed of vide order dated 23.04.2018, wherein it was held as under:

In this regard, it may be noted that the Postal Department is adopting a rather peculiar procedure of weighing the indigent circumstances of the families of the deceased employees so as to decide who amongst them should be provided compassionate appointment. This approach is sought to be justified by stating that compassionate appointment can be provided only up to a maximum of 5% of the approved vacancies. As the said scheme is not under challenge before us, we refrain from going into the validity of a maximum limit on the number of compassionate appointments that can be provided, but the very ideology behind fixation of such a maximum limit completely undermines the very concept of the welfare scheme of providing compassionate appointments to dependents/scions of deceased employees.

It is no doubt true that after a long passage of years, the right to claim compassionate appointment would diminish substantially, if not vanish altogether. However, when the authorities themselves are responsible for denial of compassionate appointment to a deserving candidate and the said candidate continues to be in a state of penury, it would not be against the spirit of the compassionate appointments scheme and the law relating thereto to permit such an appointment even after a lapse of years. Though the Post Master General, Vijayawada Region, cited the aspect of passage of time in the impugned Memo dated 28.12.2015, he himself adverted to the fact that T.Balaji Venkateswara Rao was provided compassionate appointment 11 years after the death of his father. Therefore, the postal authorities cannot use two different yardsticks in the context of passage of time for providing compassionate appointments.

No material is placed before this Court to demonstrate or justify the selection process adopted by the Circle Relaxation Committee while dealing with as many as 137 families in 2005. There is no indication of the parameters that the Committee would take into account while deciding as to which candidate should be provided compassionate appointment and which candidate should be refused such benefit. The entire process, on the face of it, appears to be opaque and self-serving. Given the lack of

transparency in the manner in which the postal authorities dealt with the case of the petitioner-applicant, this Court is of the opinion that the rejection of his candidature for appointment on compassionate grounds, be it on 18.04.2005 or under the impugned Memo dated 28.12.2015, cannot be sustained.

The writ petition is accordingly allowed setting aside the order passed by the Tribunal holding to the contrary along with the rejection orders. The respondents are directed to consider the case of the petitioner-applicant afresh for appointment on compassionate grounds, upon his furnishing an affidavit certifying his present financial condition. The respondents shall thereupon take an informed and reasoned decision in the matter and communicate the same, citing the details of the comparative analysis, if any, undertaken to evaluate his candidature. The exercise shall be completed expeditiously and in any event, not later than one month from the date of receipt of the affidavit of the petitioner-applicant detailing his financial condition.

7. The present case is squarely covered by the aforesaid order rendered by this Court. Therefore, we hereby set aside the order dated 01.05.2017 passed in O.A.No.20/1103 of 2014 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, directing the respondents to consider the case of the petitioner afresh for appointment on compassionate grounds upon his furnishing an affidavit certifying his present financial condition. The respondents shall thereupon take reasoned decision in the matter and communicate the same, citing the details of the comparative analysis, if any, undertaken to evaluate his candidature.

8. We hereby made clear that the aforesaid exercise shall be completed expeditiously and in any event, not later than two months from the date of receipt of the affidavit of the petitioner detailing his financial condition.

9. In view of the above, the Writ Petition is allowed, setting aside the order dated 01.05.2017 passed in O.A.No.20/1103 of 2014 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad. Consequently, the communication dated 20.05.2014 is hereby quashed. No order as to costs.

10. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

5th June, 2018

sj

