

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3661 of 2019

1. The Union of India through the Director General, Department of Post, New Delhi-110001
2. The Chief Postmaster General Bihar Circle, G.P.O. Complex, Patna-800001
3. The Post Master General Bhagalpur Region, Camp at Patna, Patna-800001
4. The Director of Post HQ, Patna-800001
5. The Assistant Director (Recruitment) Office of Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna-800001
6. The Superintendent of Post Offices Postal Division, Purnea-854301

... .. Petitioner/s

Versus

Gajendra Kumar S/o Late Sudhir Prasad Choudhary @ Sudhir Kumar Choudhary Vill.- Hatia Tola Khut, P.O.- Chopra Ram Nagar, P.S.- Janki Nagar, Distt.- Purnea

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Kamal, C.G.C.
For the Respondent/s : Mr. S.K. Bariar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-08-2019

Heard learned counsel for the petitioners and perused the impugned order passed by the Tribunal. A counter affidavit has been filed by the respondent bringing on record the office memorandum dated 5th September, 2016. The Tribunal has allowed the claim of the respondent for compassionate appointment.

We had entertained the writ petition on two grounds, namely, with regard to the policy that may be



applicable for the purpose of consideration of compassionate appointment of the respondent and secondly that the Original Application filed before the Tribunal had been entertained beyond the limitation as prescribed under the Central Administrative Tribunals Act.

Learned counsel for the petitioner has pressed the said two points. Having considered the same, we find that the issue was of compassionate appointment and even if the Original Application had been filed a bit delayed, the same would not fall within the definition of an inordinate delay staking a claim with regard to compassionate appointment. Even otherwise, we do not find this to be a good ground to interfere on the facts in the present case.

It is an admitted position that an application for condoning the delay had been filed giving cogent reasons yet, the Tribunal did not pass any orders thereon. We are, therefore, not inclined to entertain the petition on this ground of lapse of procedure keeping in view the fact that the office memorandum dated 5th September, 2016 clearly explains the legal position according to which the claim of the respondent has to be considered and reopened.

The memorandum dated 5th of September,



2016 is extracted hereinunder:-

“F.No. 14014/02/2012-Estt.(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training
North Block, New Delhi
Dated the 5th September, 2016

OFFICE MEMORANDUM

Subject:- **Consolidated Instructions on compassionate appointment- Review of FAQs dated 30.05.2013/25.02.2015 with regard to married son.**

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The undersigned is directed to invite attention to this Department’s O.M. No. 14014/6/1994-Estt.(D) dated 09th October, 1998 and OM of even number dated 16th January, 2013 vide which **Consolidated Instructions on compassionate appointment** were issued. Subsequently, vide FAQ No. 13 dated 30.05.2013 it has been clarified that married sons are not considered as dependent family member and hence not eligible for consideration for compassionate appointment. The clarification with regard to married son as stipulated in FAQ No. 13 dated 30.05.2013 has been reviewed vide FAQ No. 60 of even number dated 25.02.2015 as under:-

Sl. No	Question	Answer
60	Whether ‘married son’ can be considered for	Yes, if he otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria



	compassionate appointment?	laid down in this Department's O.M. dated 16th January, 2013. This would be effective from the date of issue of this FAQ viz. 25th February, 2015 and the cases of compassionate appointment already settled w.r.t. the FAQs dated 30th May, 2013, may not be reopened. Sr. No. 13 of the FAQs dated 30th May, 2013 may be deemed to have been modified to this extent.
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2. Pursuant to various Court Orders, the clarification/FAQ No. 13 dated 30.05.2013 and FAQ No. 60 dated 25.02.2015 has been further reviewed in consultation with the Department of Legal Affairs. It has been decided that married son can be considered for compassionate appointment if he otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria laid down in this Department's O.M. dated 16th January, 2013.

3. FAQ No. 13 dated 30.05.2013 and FAQ No. 60 dated 25.02.2015 stands withdrawn from the date of their issue.

4. The cases of compassionate appointment rejected solely on the grounds of marital status in terms of FAQ No. 13 dated 30.05.2013 during the intervening period i.e. w.e.f. 30.05.2013 to 25.02.2015 in respect of married son may be reopened/reconsidered against vacancies occurring after issue of this OM.

5. Hindi version will follow.

(G.Jayanthi)

Director (E-I)



Phone No. 23092479

To

All Ministers/Departments of Government of India

Copy to:

1. President's Secretariat, New Delhi
2. Vice-President's Secretariat, New Delhi
3. The Prime Minister's Office, New Delhi
4. Cabinet Secretariat, New Delhi
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi
6. The Registrar General, the Supreme Court of India, New Delhi
7. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi
8. The Comptroller and Auditor General of India, New Delhi
9. The Secretary, Union Public Service Commission, New Delhi
10. The Secretary, Staff Selection Commission, New Delhi
11. All attached offices under the Ministry of Personnel, Public Grievances and Pensions
12. National Commission for Scheduled Castes, New Delhi
13. National Commission for Scheduled Tribes, New Delhi
14. National Commission for OBCs, New Delhi
15. Secretary, National Council (KM) 13, Ferozeshah Road, New Delhi
16. Establishment Officer & A.S.
17. All Officers and Sections in the Department of Personnel and Training
18. Facilitation Centre, DOP&T (20 copies)
19. NIC (DOP&T) for placing this Office Memorandum on the Website of DOP &T



20. Establishment Section (10 copies).”

Apart from this, the consideration has to be now made keeping in view a further decision taken by the Government of India whereby under the notification dated 30th May 2017 the Revised Scheme Point System has been dispensed with.

The judgment relied on by the learned counsel for the petitioner, therefore, is no impediment keeping in view the specific terms of the circular extracted hereinabove.

Accordingly, we see no reason now to interfere with the order of the Tribunal. The writ petition is dismissed subject to the aforesaid observations.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	14.08.2019
Transmission Date	

