

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.28883/2019 & WMP.No.28625/2019

1.Union of India
rep.by the Chief Engineer
Chennai Zone, Military Engineer
Services Island Grounds, Chennai-9.

2.The Commander Works Engineer
Pallavan Salai,
Chennai 600 002. .. Petitioners

Versus

1.The Registrar
Central Administrative Tribunal
Chennai 600 104.

2.B.Mythili. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the order passed by the 1st respondent in OA.No.927 of 2018 dated 20.03.2019 and quash the same.

For Petitioners : Mr. V.Chandrasekaran

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

- (1)The official respondents in the Original Application in OA.No.927 of 2018, are the writ petitioners herein.
- (2)The 2nd respondent herein/Original Applicant, on the demise of her father Late C.Bulganin [MES 198053], who was working as Mason [HS], Avadi, on 18.01.2011, initially submitted an application on 05.08.2013 seeking for compassionate ground appointment and it was rejected on 30.11.2015 on the ground that the mark of 56 secured by her, is less than the cut-off mark. Thereafter, the 2nd respondent herein/Original Applicant, had once again submitted the application dated 05.08.2013 for the similar relief and it was rejected on

10.10.2016 for the year 2015-2016 and again, it was considered for the year 2016-17 and it was rejected on 23.11.2017 and the Original Applicant, making a challenge to the said order, filed OA.No.927 of 2018 and it was allowed by the Central Administrative Tribunal, Chennai Bench, vide order dated 20.03.2019 and making a challenge to the same, the present writ petition is filed.

- (3) The learned counsel for the petitioners has drawn the attention of this Court to the Scheme for compassionate ground appointment issued by the Ministry of Defence, Government of India dated 14.05.2010 in F.No.19 [3/2009/D [Lab] and would submit that as per the said scheme which was in vogue on that day, in respect of minor children, if they are 3 and above, 15 marks/points would be awarded ; for two minor children '5 marks/points' and if it is one minor child '5 marks/points' would be awarded and while rejecting the claim of the 2nd respondent herein/Original Applicant, in the light of the said scheme, 5 marks for one minor child was not awarded and even in the order of Rejection dated 23.11.2017, which was the subject matter of challenge before the Tribunal, it was also indicated that due to limited vacancy as well as low merit, the claim of the 2nd respondent herein/Original Applicant could not be considered in the IV Yearly Look [2016-17] Board and however, her case will be considered in the next yearly Board on release of the vacancies from Competent Authority and it is further stated that consideration of BOO is not a guarantee for appointment on compassionate ground as the same is based on merit and availability of vacancies.
- (4) It is the further submission of the learned counsel for the petitioners that appointment on compassionate ground cannot be claimed as a matter of right and merit-wise also, by applying the earlier scheme, the 2nd respondent herein/Original Applicant, was not considered to be eligible for consideration for giving appointment on compassionate ground and therefore, prays for interference.
- (5) This Court has carefully considered the submissions made by the learned counsel for the petitioners and also perused the materials placed before it.
- (6) It is the claim of the 2nd respondent/Original Applicant that on the date of demise of her father on 18.01.2011, she was a minor aged about 16 years and on that ground, even as per the Old Scheme, she was entitled to be awarded 5 merit points. A perusal of the orders of rejection would disclose that the 2nd respondent herein/Original Applicant, secured 56 marks and if 5 merit points were added, she would have secured 61 marks, which is the cut off merit marks.
- (7) The Tribunal has also placed reliance upon the Judgment of the Hon'ble Supreme Court of India dated 15.05.2015 in Civil Appeal Nos.260, 266 and 267 of 2008 [Canara Bank and Others V. M.Mahesh Kumar and Others], which laid down the proposition that the claim of compassionate ground appointment must be considered as per the Scheme which was in vogue at that time and even as per the Scheme dated

14.05.2010, which was in vogue at the time of submission of the application by the 2nd respondent/Original applicant, she was entitled to 5 marks/points as she was a minor at the time of the demise of her father. If relative merit point system is applied, she would have definitely got 61 marks, which was the cut-off marks secured by the next eligible candidate who was also selected.

(8) In the light of the ratio laid down in Canara Bank's case [cited supra], the Tribunal has rightly applied the said proposition and allowed the Original Application.

(9) This Court, on an independent application of mind to the entire materials, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the Tribunal and finds no merit in the writ petition.

(10) In the result, the writ petition stands dismissed at the admission stage itself, confirming the order passed by the 1st respondent in OA.No.927 of 2018 dated 20.03.2019. No costs.

(11) The petitioners/official respondents in the Original Application, are granted two months time to comply with the impugned order passed by the Tribunal in OA.No.927 of 2018. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Chief Engineer
Union of India
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Services Island Grounds, Chennai-9.

2.The Commander Works Engineer
Pallavan Salai,
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3.The Registrar
Central Administrative Tribunal
Chennai 600 104.

+1cc to Mr.V.Chandrasekaran, Advocate, S.R.No. 84346

WP.No.28883/2019

NR (CO)