

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2019

CORAM

THE HON'BLE MR JUSTICE M. VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.No.19007 of 2017
and
WMP No.20536 of 2017

1. Union of India rep by
The Chief Post Master General,
Tamil Nadu Circle,
Chennai - 600 002
 2. The Superintendent,
Railway Mail Service (C.B. Division),
Coimbatore 641 001
- Petitioners

Vs

1. A. Santhi
 2. Central Administrative Tribunal,
Rep by its Registrar,
Madras Bench,
Chennai - 104
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records of the second Respondent and quash the Order dated 13.07.2016 in O.A.No.805 of 2013.

For petitioners : Mr.S. Rajaprabhu for
Mr.K.S. Jayaganesan

For R.1 : Notice Served

For R.2 : Tribunal

ORDER

(Order of the Court was made by M VENUGOPAL, J.,)

Heard the Learned Counsel for the Petitioner.

2. Court Notice to the First Respondent was served as early as on 12.08.2017. Today, on her behalf, there is no representation before this Court either in person or through Learned Counsel.

3. According to the Writ Petitioners, the husband of the First Respondent viz., A. Annamalai Arasu, who worked as 'Mail Man' in Sub Record Office, RMS 'CB' Division, Erode, retired from Service on 'Medical Invalidation' with effect from 01.06.2002. As a matter of fact, the claim for 'Compassionate Appointment' is required to be processed observing specific rules, governing the Compassionate Appointment in the light of instructions contained in DOPT Letter No.14014/6/94-Estt(D) dated 9.10.98 and subsequent instructions, for which necessary proposal supported by documents and records required to be submitted to the Review Committee at Circle Level.

4. It is represented on behalf of the Petitioners that as per OM No.14014/6/95-Estt (P) dated 26.09.95 of Ministry of Personnel, PG & Pensions communicated in Postal Directorate, New Delhi Letter No.24-170/94-SPB I dated 11.12.95, consideration of appointment on Compassionate grounds ought to be with reference to the position about availability of vacancies within the ceiling of 5% falling under Direct Recruitment in Group C and Group D posts.

5. With a view to assess the degree of indigence among all the claimants for 'Compassionate Appointment' within the prescribed ceiling of 5% of the direct recruitment vacancies, the relative merit point system was prescribed by Postal Directorate vide Letter No.37-36/2004-SPB I/C dated 20.01.2010, according to which, the Compassionate Appointments will have to be processed by allocating points based on various attributes such as financial condition of the family like Assets, Liabilities, size of the family, essential needs of the family like education of children etc., In fact, the aforesaid system was introduced with a view to have 'objectivity' and to ensure complete transparency and uniformity in the selection process.

6. The Petitioners come out with a stand that between 1990 and 1999, more than 600 cases were approved and kept in the waiting list and based on the guidelines issued by the Department of Personnel and Training vide OM No.42012/4/2000-Estt(D) dated 24.11.2000, it was ordered to discontinue the

maintenance of 'waiting list' of approved candidates for Compassionate Appointment, as per Postal Directorate's Letter No.24-1/99-SPB I dated 08.02.2001 with direction to such wait listed candidates to give their willingness for consideration to other Ministries.

7. It is brought to the notice of this Court that when the proposal was taken up with Nodal Ministry, the Department of Personnel and Training, vide OM No.14014/18/2000-Estt(D) dated 22.06.2001, it was directed that consideration of waiting list for appointment of Compassionate grounds should be with reference to the position about availability of vacancies within the ceiling of 5% falling under direct recruitment in Group 'C' and Group 'D' posts and to discontinue the practice of circulating the names of deserving applicants to other Ministries/Department. Based on the aforesaid directions of Department of Personnel and Training in Postal Directorate Letter No.37-16/2001-SPB I dated 25.07.01, it was decided to dispense with the procedure of keeping the waiting list of candidates for Compassionate Appointment.

8. The First Respondent was examined along with other 876 applicants for Compassionate Appointment applying the relative merits points as prescribed by Directorate in Letter No.37-36/2004-SPB I/c dated 20.01.2010. The case of the First Respondent was considered by the Circle Relaxation Committee and decision about consideration of eligible cases against the 5% of vacancies reserved under direct recruitment quota was taken after objective assessment of each case. Indeed, the First Respondent's case was not recommended by the Circle Relaxation Committee as less indigent and for want of 5% Direct Recruit vacancies and the decision of Circle Relaxation Committee was communicated to the First Respondent vide Letter No.B1/33/RRR/Dlgs/VI dated 02.07.12 by the Second Petitioner. The First Respondent assailed the decision of Circle Relaxation Committee before the Second Respondent Tribunal in O.A.No.805 of 2013.

9. The Learned Counsel for the Petitioners submits that though the the First Respondent's husband retired from service on 'Medical Invalidation' with effect from 01.06.2002, her case for Compassionate Appointment was processed only during the year 2012, as the matter of Compassionate Appointment was sub-judice before the Courts from the year 2002 to 2010 and her case was examined in the Circle Relaxation Committee 2012 for the vacancies of the year 2010 and 2011 and some unutilised vacancies after implementing the Hon'ble Supreme Court Orders.

10. Further, it is represented that the Scheme of 'Compassionate Appointment' issued by DOPT's OM No.14014/6/94-

Estt(D) dated 09.10.1998 (modified from time to time) is being followed for examining the Compassionate Appointment cases. Further, the DOP & T, while issuing the above instructions has also instructed to follow the principles laid down by the Hon'ble Supreme Court of India in the matter relating to 'Compassionate Appointment'.

11. The prime stand of the Petitioner is that the case of the First Respondent was examined in the year 2012 and the Relative Merit Point System introduced by Postal Directorate in the year 2010 has been followed to assess the degree of indigence among all the applicants within the prescribed ceiling of 5% of the direct recruitment vacancies, in order to ensure complete transparency and uniformity in the selection process. All the cases (including the First Respondent's case) were examined by the scheme dated 09.10.98 and by following a uniform procedure of applying relative merit point system by Circle Relaxation Committee 2012.

12. In this connection, it may not be out of place to make a significant mention that in O.A.No.805 of 2013, filed by the First Respondent/Applicant before the Second Respondent/Central Administrative Tribunal, that the Tribunal, on 13.07.2016 had issued a direction to the Respondents therein (Writ Petitioners) to reconsider the candidature of the applicant as per the scheme which existed as on the date of 'Medical Invalidation' of her husband by placing it before the ensuing 'Circle Relaxation Committee' and disposed of the same with a direction that the Respondent/Authority shall reconsider the candidature of the applicant as per the relevant rules by placing it before the ensuing 'Circle Relaxation Committee' and thereafter communicate the result to the Applicant.

13. At this stage, on mere running of the eye of the Order dated 13.07.2016 in O.A.No805/2013 passed by the Second Respondent/Central Administrative Tribunal, it is pertinently clear that a representation was made to the Order of the Hon'ble Supreme Court of India between Canara Bank and another vs M. Mahesh Kumar and Others in C.A.Nos.260, 266 and 267 of 2008 dated 15.05.2015 and a plea was raised before the Tribunal that the First Respondent/Applicant's case was to be considered in the light of the aforesaid order/decision passed by the Hon'ble Supreme Court of India in respect of 'Compassionate Appointment' in terms of the scheme that existed as on the date of 'Medical Invalidation' of the First Respondent's Husband.

14. It comes to be known that the relative merit point of the Last Selected candidate in MTS cadre was 91 and the First Respondent's merit point was worked out to 90. In this regard, it may not be out of place to mention of this Court to make a

pertinent mention that the Petitioners have come out with an emphatic plea that the case of the First Respondent was considered by the Circle Relaxation Committee and decision about consideration of eligible cases against the 5% of vacancies reserved under direct recruitment quota was taken after 'Objective Assessment' of each case.

15. Be that as it may, in view of the upshot and this Court, taking note of the entire conspectus of the attendant facts and circumstance of the present case in an encircling manner, comes to an inevitable and irresistible conclusion that the impugned order of the Second Respondent/Central Administrative Tribunal, Madras Bench dated 13.07.2016 in O.A.No.805 of 2013, wherein, directions are issued to the Petitioners/ Respondents to reconsider the Applicant's candidature as per the relevant Rules by placing it before the ensuing 'Circle Relaxation Committee,' etc., do not suffer from any material irregularity and patent illegality in the eye of Law. Viewed in that perspective, the present Writ Petition is devoid of merits.

16. In fine, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1) The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai - 104.
- 2) The Chief Post Master General,
Union of India, Tamilnadu Circle,
Chennai - 600 002.
- 3) The Superintendent,
Railway Mail Service (CB Division)
Coimbatore - 641 001.

+1 cc to Mr.K.S.Jayaganeshan, Advocate, S.R.No.10499

W.P.No.19007 of 2017

SSM(21/02/2019)