

High Court for the State of Telangana

The Hon'ble The Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Dr. Justice Shameem Akther

W.P. No. 15606 of 2019

Date: 26-07-2019

Between:

Smt. Sk. Habeeba

...Petitioner

and

Union of India

Rep. by the Director General Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-1 and 2 others

...Respondents

Counsel for the petitioner:

**Ms. S. Anuradha
for Ms. Rachna Kumari**

Counsel for the respondents:

**Mr. Venkateswarlu,
for Mr. K. Lakshman,
Asst. Solicitor General**

The Court made the following:

Order: (per Hon'ble The Chief Justice Raghvendra Singh Chauhan)

Smt. Sk. Habeeba, the petitioner No. 1, has challenged the legality of the order dated 23-07-2018, passed by the Central Administrative Tribunal, Hyderabad Bench, whereby the learned Tribunal has dismissed the O.A., namely O.A.No. 021/0158/2017, filed for seeking the relief of compassionate appointment to her younger son, Mr. Shaik Rafique, the petitioner No. 2.

Briefly the facts of the case are that the husband of the petitioner No. 1 had expired, in harness, on 02-10-2007, while he was employed as a Mail Overseer in the Postal department. After his death, the department released an amount of Rs.2,45,000/- towards the death benefits, to which the family was entitled to. Since the petitioner No. 1 lost her husband in harness, on 14-02-2009, she submitted a representation to the respondents requesting them to provide compassionate appointment to her younger son, Mr. Shaik Rafique, the petitioner No. 2. However, by order dated 23-06-2011, the Superintendent of Post Offices, the respondent No. 3, informed the petitioners that since there were a limited number of 5% of total DR (Direct Recruitment) vacancies, the compassionate appointment could not be given to the petitioner No. 2. Therefore, the petitioners filed the aforesaid O.A., in 2017, and

sought the relief that a direction be issued to the respondent No. 3 to consider the case of the petitioner No. 2 for compassionate appointment. However, as pointed out hereinabove, by the impugned order dated 23-07-2018, the learned Tribunal has dismissed the said O.A.

The learned counsel for the petitioners submits that despite the fact that the O.A., was submitted after an inordinate delay, the Tribunal had condoned the delay, and had entertained the O.A. Therefore, the learned Tribunal is unjustified in dismissing the O.A., on the ground of delay and laches. Hence, the impugned order deserves to be set aside by this Court.

On the other hand, the learned counsel for the respondents submits that the OA has not been dismissed only on the ground of delay and laches. In fact, it has been dismissed more so on the ground that the family had already received the death benefits totalling to Rs.2,45,000/-, and the family has survived for long number of years without facing any financial crisis. The learned counsel further submits that a compassionate appointment is an exception to a regular selection and appointment. Therefore, the respondents were justified in rejecting the case of the petitioner No. 2. Hence, the learned counsel has supported the impugned order.

Heard the learned counsel for both parties, and perused the impugned order.

In catena of cases, the Hon'ble Supreme Court has clearly pointed out that the object and purpose of granting compassionate appointment is to protect a family from the financial crisis being faced in case of the sudden demise of the bread earner. Moreover, the compassionate appointment is an exception to the regular appointment. Therefore, the cases of compassionate appointment need to be assessed by the concerned department while keeping in mind the sudden financial crisis being faced by the family. The compassionate appointment cannot be claimed as a right, as it is a privilege granted to the dependents of an employee, who has died in harness.

In the present case, admittedly, the husband of the petitioner No. 1 had expired on 02-10-2007. The family had been granted Rs.2,35,479/- by way of death benefits. The application for seeking compassionate appointment was not made till 04-02-2009. Thus, the family had survived for over one and a half years without seeking compassionate appointment. Though the application for compassionate appointment was dismissed on 23-06-2011, the O.A., was not filed till 2017. Obviously, the family had financially survived for six long years.

Considering the fact that the family had managed to survive from 2007 to 2017, the petitioner No. 2 is not entitled to a compassionate appointment.

A bare perusal of the impugned order clearly reveals that delay and laches is not the only ground on which the O.A., has been dismissed. The learned Tribunal has certainly noticed the fact that the family had been granted the death benefits to the tune of Rs.2,35,479/-. Therefore, the family was not caught up in a financial crisis warranting rescue. Since the learned Tribunal has assigned cogent and convincing reasons for dismissing the O.A., this Court does not find any illegality or perversity in the impugned order.

This petition, being devoid of any merit, is hereby dismissed.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(Raghvendra Singh Chauhan, CJ)

(Dr. Shameem Akther, J)

Dt: 26th July, 2019
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