



WP No.6182 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

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1.Union of India,
Represented by the Chief Post Master General,
Tamil Nadu Circle,
Annasalai,
Chennai- 600 002.

2.The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai-606 601.

3.The Inspector of Post,
Polur Sub Division,
Polur, Pincode-606 601.

... Petitioners

versus

1.Mrs.M.Janaki

2.The Registrar,
Central Administrative Tribunal,
Chennai Bench.

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records of the second respondent relating to the impugned order dated 02.06.2017 made in OA No.310/01527/2015 and quash the same.

For the Petitioners	:Mr.T.L.Thirumalaisamy
For the Respondents	:Mr.K.M.Ramesh
	Senior Counsel
	for Mr.S.Apunu
	for first respondent
	second respondent-Tribunal

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The writ petition has been filed challenging the order in OA No.310/01527/2015 dated, 02.06.2017.

2. Brief facts of the case:

2.1. The first respondent's husband was working as GDSMC, in Thumbur Branch Post Office under Tiruvannamalai Division. He died in harness on 21.07.2008. Thereafter, son of the first respondent, namely Murali made a representation dated 14.08.2008 to the second petitioner,



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seeking appointment on compassionate grounds. In the meantime, son of the deceased was provisionally engaged in the vacancy caused due to the death of his father with effect from 13.08.2008. Subsequently, the Circle Relaxation Committee which met on 08.02.2010 has observed that the service record of the deceased employee was not satisfactory as he was involved in money order fraud case and therefore, the son of the deceased was not recommended. Pursuant to the said observation of the Circle Relaxation Committee dated 08.02.2010, the third petitioner vide No.IP/GDS/DLGS/ Thumbur dated 05.03.2010, terminated the son of the deceased employee from interim arrangement. Aggrieved by the same, son of the deceased employee had filed an appeal before the first petitioner herein. The second petitioner by letter dated 28.05.2010 had informed the son of the deceased that the first petitioner had rejected the appeal on the ground that the deceased employee was involved in money order fraud case while he was in service.



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2.2. Challenging the said order dated 28.05.2010, son of the deceased had filed an original application in OA No.1236 of 2010. The Tribunal, by order dated 30.08.2011, had allowed the said OA and directed the petitioner Department to consider the case of the son of the deceased employee for appointment on compassionate grounds. While so, the Postal Directorate vide letter No.17-17/2010-GDS dated 14.12.2010 prescribed a system of allocation of points to various attributes. The said system was introduced in order to have objectivity and to ensure complete transparency and uniformity in the selection process and the said letter dated 14.12.2010 was subsequently confirmed by Postal Directorate vide letter No.17-17/2010-GDS dated 01.08.2011. As per the said letter, the claim which carry over and above 50 merit points are to be treated as hard and deserving cases.

2.3. Subsequently, in compliance of the order of the Tribunal dated 30.08.2011, the case of the son of the deceased was taken up for reconsideration by Circle Relaxation Committee and applying the systems as per letter No.17-17/2010/2010-GDS, dated 14.12.2010, by the Postal Directorate, 35 merit points were awarded to the son of the deceased but the



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required merit points were 50. Therefore, the first petitioner vide Letter No.REP/36-59/2009 dated 21.12.2011 had rejected the claim of the son of the deceased. Aggrieved by the same, son of the deceased had filed an original application in OA No.1035 of 2012 before the Central Administrative Tribunal. Though the said OA was filed by the son of the deceased, Smt Janaki, wife of the deceased employee, the first respondent herein was also included as the second applicant in the said OA. The Tribunal, by order dated 05.09.2014, had disposed of the said OA, holding as follows: *'In the facts and circumstances of the case, it is not possible for this forum to give a direction to the respondents for appointment on compassionate grounds to the first applicant as prayed for in the OA. However, the respondents are directed to consider the case of 2nd applicant for appointment on compassionate grounds subject to eligibility and in accordance with the Scheme relating to compassionate appointment and take a decision within a period of 4 months from the date of receipt/communication of a copy of this order.'*



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2.4. Based on the above direction of the Tribunal, the first respondent was directed to submit her claim with all necessary documents. Accordingly, the first respondent had submitted her claim with documents. The above claim was forwarded to the Circle Relaxation Committee and the same was processed by the Committee in the light of the instructions of Directorate. As per the claim application, the education qualification of the first respondent herein is VIII Standard (fail) and the first respondent had deliberately failed to submit the certificates of her educational qualifications and also proof for date of birth. Therefore, the Circle Relaxation Committee has not approved the claim of the first respondent on the ground that she did not fulfil the minimum educational qualification required for the post of GDS as per the Postal Directorate's Letter No.17-17/2010-GDS dated 14.12.2010, and subsequent Postal Directorate's letter No.17-39/6/2012-GDS dated 14.01.2015, which also confirms the minimum qualification as "pass in X Standard by a recognized board shall be the mandatory qualification for all categories of GDS'. Hence, the claim of the first respondent was rejected by the first petitioner by letter dated 22.09.2015.



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2.5. Aggrieved by the said order dated 22.09.2015 passed by the first petitioner, the first respondent herein had filed the instant original application in OA No.1527 of 2015, before the Central Administrative Tribunal, by order dated 02.06.2017 had disposed of the said OA holding as follows: *'Considering the plea of the applicant, I am of the view that rejecting her claim for compassionate appointment on the ground that she has not fulfilled the requisite educational qualification is not proper. Rather she should be given appointment in relaxation of educational qualification. In the said circumstances, the respondents are directed to reconsider the claim of the applicant and an appropriate order to be issued within a period of one month from the date of receipt of a copy of this order. The OA is disposed of as above.'* Challenging the said order dated 02.06.2017, the petitioner Department has filed the present writ petition.

3. Learned Standing Counsel for the petitioner Department submits that the first respondent has not secured the minimum qualification i.e. pass in X Standard by a recognized board, which is the mandatory qualification for all categories of GDS. Therefore, the petitioner Department has not



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considered the first respondent for appointment under compassionate grounds. Without taking note of the said fact, the Tribunal has allowed the said OA and directed the petitioner Department to reconsider the claim of the first respondent and pass orders, which is contrary to the eligibility prescribed by the guidelines issued by the Department. He further submits that the first respondent has completed the age of 60 years and even if the said order of the Tribunal is complied with by the petitioner Department, appointment under compassionate grounds cannot be given to the first respondent since she has already completed 60 years of age. Therefore, on the aforesaid grounds, the order passed by the Tribunal is liable to be set aside.

4. Learned Senior Counsel appearing for the first respondent has stated that the Tribunal has considered the case of the first respondent in detail and held that the first respondent herein is entitled for appointment under the said Scheme. Therefore he seeks for dismissal of the writ petition.



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5. Heard the parties and perused the materials available on record.

6. The points involved in this writ petition are:

(i) Whether the order of the Tribunal directing the petitioner Department to consider the application submitted by the first respondent seeking appointment under compassionate grounds is correct and

(ii) Whether the order of the Tribunal to appoint her on compassionate grounds can be implemented at this point of time.

7. The first respondent's son has already submitted his application for appointment under compassionate grounds and the said application came to be rejected by the authority concerned. Aggrieved by the said rejection order, the first respondent's son had filed OA No.1035 of 2012, before the Central Administrative Tribunal. Though the said OA was filed by the son of the deceased, first respondent's name was also included as the second applicant in the said OA. The Tribunal has accepted the contention of the petitioner Department that the first respondent's son was not eligible for appointment under compassionate appointment Scheme but considering the



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request made by the first respondent, a direction was given to the petitioner Department to consider the claim of the first respondent for appointment under the compassionate appointment Scheme. The said application has been submitted by the first respondent in the year 2014; whereas the deceased employee had died on 21.07.2008, while he was in service. It is clear that the said application has been submitted by the first respondent after a lapse of six years. Further, the first respondent is now over-aged and she is now 62 years.

8. Further, the Hon'ble Supreme Court in a catena of decisions has held that compassionate appointment is not a matter of right unless there is any rule prescribed for considering the second application submitted by the legal heir of the deceased employee, by the authority concerned. Therefore, the order of the Tribunal directing the authority concerned to consider the first respondent for appointment under the compassionate appointment Scheme cannot be accepted.



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9. In such circumstances, considering the fact that after the application submitted by the son of the deceased employee was rejected, a direction was given by the Tribunal to the petitioner Department to consider the application of the first respondent for appointment under compassionate appointment Scheme, and considering the fact the first respondent herein had already completed 60 years of age, the said order of the Tribunal warrants interference by this Court. The order is liable to be set aside.

10. In view of the above, the order passed by the Tribunal in OA No.310/01527/2015 dated 02.06.2017 is set aside and the writ petition stands allowed. There will be no order as to costs. Consequently, WMP No.7640 of 2018 is closed.

[D.K.K., J.] [P.D.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
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