



W.P.No.30380 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 10.11.2023

Delivered on: 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.30380 of 2019

and

W.M.P. No.30371 of 2019

1. Union of India
represented by the
Chief Postmaster General,
Tamil Nadu Circle,
Chennai-600 002.

2. The Senior Superintendent of Post Offices,
Tiruchirappalli Division,
Tiruchirappalli – 620 001.

... Petitioners

Vs.

1. The Registrar,
Central Administrative Tribunal,
Chennai.

2. M. Muthukumaran S/o. S. Murugesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of

India praying to issue a Writ of Certiorari calling for the records of the 1st



W.P.No.30380 of 2019

WEB COPY

respondent / Central Administrative Tribunal pertaining to O.A. No.1715 of 2016 dated 13.08.2018 and quash the same.

For Petitioners : Mr. V. Chandrasekaran
For Respondents : Tribunal [for R1]
Mr. S. Ramaswamy Rajarajan [for R2]

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Writ Petition has been filed by the petitioners / Postal Department to issue a Writ of Certiorari or any other appropriate order or direction calling for the records relating to the order passed by the 1st respondent / Central Administrative Tribunal in O.A. No.1715 of 2016 dated 13.08.2018 and to quash the same.

2. According to the petitioner, the 2nd respondent herein had filed O.A. No.1715 of 2016 seeking for compassionate appointment. The case of the 2nd respondent is that his father S. Murugesan died on 05.04.1991 while in service as Group 'D' employee in Tiruverumbur Sub-Post Division. Consequently, the 2nd respondent's mother namely M.Santhayee had given a representation for compassionate appointment. The 2nd respondent's mother was informed that there was no vacancy at



W.P.No.30380 of 2019

WEB COPY

Tiruchirappalli Division and hence her willingness was called for allotment to other Division to expedite the process of getting appointment early. But she did not respond to the letter of the Postal Department dated 18.12.1995. However, her name was kept in the waiting list for appointment in Group 'D' post. Since she was approved to be kept in waiting list for compassionate appointment, her willingness was sought for by the Senior Superintendent of Post Offices, Tiruchirappalli Division vide letter dated 29.06.1998 as to whether she was willing to work under leave arrangements in Post Office near her native place till the allotment was made by the Postal Department / petitioners. The 2nd respondent's mother replied through her letter dated NIL, received on 08.07.1998 stating that she was physically unwell and unable to work as Group 'D' employee, instead she requested to consider her son / 2nd respondent herein for compassionate appointment. The request of the mother of the 2nd respondent was not answered and hence she filed O.A. No.1427 of 2011 and the same was disposed off with directions that “considering the submissions made by the learned counsel for the applicant, though there is a delay in approaching the Tribunal, without going into the delay and the merits of the case, we direct the applicant to



W.P.No.30380 of 2019

WEB COPY

approach the respondents to consider their respective representations and if any aggrieved order is passed the applicants are at liberty to approach this Tribunal. With the above observations, the OA is disposed of the admission stage itself". In compliance of that directions, an order was passed by the 1st respondent on 30.12.2014 by stating that request of the 2nd respondent was already rejected by letters dated 15.10.2003, 30.03.2005 and 28.02.2012 respectively on the ground of abolition of waiting list and also informed that an appointment made on compassionate ground to one person cannot be transferred to another person and any request for the same should invariably be rejected.

2.1. Thereafter, the 2nd respondent filed O.A. No.1715 of 2016 by challenging the said order dated 30.12.2014 without disputing the fact that the claim of compassionate appointment was already rejected on repeated occasions as early as on 15.10.2003, 30.03.2005 and 28.02.2012 on the ground of abolition of waiting list which remained unchallenged and only on the ground that since no appointment order was issued in the name of the 2nd respondent's mother, the question of transferring appointment would not arise and since the mother of the 2nd respondent had not given her willingness, the 2nd respondent could be appointed. The Tribunal



W.P.No.30380 of 2019

WEB COPY

without considering the earlier rejection orders passed by the 1st respondent directed to consider the request of the 2nd respondent for compassionate appointment independently for the offer made to his mother.

2.2. Between 1991 to 2000, 602 applications were approved in excess of vacancies earmarked for compassionate appointment and were included in the waiting list for future absorption. In the meantime, they were allowed to work on short term basis in leave vacancies purely on humanitarian grounds. However, the 2nd respondent's mother expressed her inability to work.

2.3. As per the guidelines dated 24.11.2000 issued by the Department of Personnel & Training dated 24.11.2000, it was ordered to discontinue the maintenance of waiting list of approved candidates. This was challenged and the same went upto Hon'ble Supreme Court and the Hon'ble Supreme Court vide order in S.L.P. No.2976 of 2008 (Civil Appeal No.7773 of 2009) directed to regularize the services of 202 respondents, who were then waiting list candidates and working as on 27.10.2009. The said order was complied with in letter and spirit as an one time measure. Neither the 2nd respondent nor his mother were covered by the said order of Hon'ble Apex Court. The 2nd respondent gave a



W.P.No.30380 of 2019

WEB COPY

representation on 07.10.2002 and 20.12.2002 seeking appointment as Gramin Dak Sevak on compassionate grounds. A reply was given by the Department dated 15.10.2003 that his case could not be considered in view of abolition of waiting list by the Directorate. This order had become final and has not been challenged till date.

2.4. Thereafter only in 2011, the 2nd respondent approached the 1st respondent by filing O.A. No.1427 of 2011 wherein a direction was given for disposal of the representation without going into delay aspect. Since the order of the 1st respondent in O.A. No.1427 of 2011 did not refer to the order of rejection dated 15.10.2003, an inference can be drawn that the same was not placed before the 1st respondent. The 2nd respondent has not taken any earnest effort since of order of rejection dated 15.10.2003 till the year 2011. Further order dated 15.10.2003 remains unchallenged would prove the lack of bonafide on the part of the 2nd respondent. Hence the order passed by the 1st respondent is liable to be set aside.

3. The learned counsel appearing for the petitioners would contend that the father of the 2nd respondent was working in the Postal Department as Group 'D' employee at Tiruverumbur Sub Post Office and he died on 05.04.1991. Thereafter, the mother of the 2nd respondent applied for



W.P.No.30380 of 2019

WEB COPY

compassionate appointment and the same was not considered due to non-vacancy. Thereafter, the Postal Department had issued a letter dated 18.12.1995 stating that there was no vacancy in Tiruchirappalli Division and called for willingness for appointment in other Division but the mother of the 2nd respondent was not willing due to her illness and further she requested to consider her son, the 2nd respondent herein, for compassionate appointment. In the meantime, the mother of the 2nd respondent filed a O.A. No.1427 of 2011 and the 1st respondent herein had directed the petitioners' department to consider the representation. Thereafter, the petitioners' department passed an order dated 30.12.2014 rejecting the representation of the 2nd respondent's mother by stating that already the request of the 2nd respondent's mother was rejected by letters dated 15.10.2003, 30.03.2005 and 28.02.2012 respectively. But the above said rejection orders have not been challenged and further an appointment on compassionate ground cannot be transferred from one person to another person. Therefore, the order passed by the 1st respondent Tribunal is valid in accordance with law and the Tribunal without considering the above said aspects, had directed the petitioners' department to consider the representation of the 2nd respondent. The application for compassionate



W.P.No.30380 of 2019

WEB COPY

appointment independently of the offer made to his mother in the relevant year. Therefore the order of the 1st respondent is liable to be quashed.

4. The learned counsel appearing for the 2nd respondent would contend that the father of the 2nd respondent was working under the petitioners' department as Group 'D' employee at Thiruverumbur Sub Post Office and he died on 05.04.1991 while he was in service. Thereafter, the mother of the 2nd respondent gave a representation for compassionate appointment and the same was considered and her willingness to work at any other Division as there was no vacancy at Tiruchirappalli Division to get appointment early. Further, the name of the 2nd respondent's mother was kept in waiting list and the same was intimated by the Postal Department through letter dated 29.06.1998 stating that the Chief Post Master-General had approved her for the appointment of Group 'D' post. Thereafter, the mother of the 2nd respondent had not received any appointment letter. Then she gave a representation on 26.07.2000, wherein she requested the Postal Department to give compassionate appointment to her son and also given her 'no objection' to that effect. As there was no response, again the mother of the 2nd respondent gave a representation



W.P.No.30380 of 2019

dated 08.06.2001 for compassionate appointment to her son. Thereafter, the 2nd respondent himself made a representation dated 24.03.2011 to the Postal Department by requesting to give compassionate appointment. Again, as per the direction of the 1st respondent in O.A. No.1427 of 2011, the 2nd respondent made a fresh representation dated 22.11.2014 and the same was rejected through impugned order dated 30.12.2014. As against the said impugned order, the 2nd respondent filed the impugned O.A. No.1715 of 2016. The Tribunal after considering the records and the Postal Department already allotted the post of Group 'D' to the mother of the 2nd respondent, have to allot the same post to the 2nd respondent. Therefore the order of Tribunal is in accordance with law and hence the present petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. It is an admitted fact that the father of the 2nd respondent was under the employment of petitioners' department and he died while he was in service. The date of death of the 2nd respondent's father is 05.04.1991.



W.P.No.30380 of 2019

WEB COPY

Thereafter, the mother of the 2nd respondent filed an application for compassionate appointment and the Postal Department was also willing to appoint her as Group 'D' employee in other Division since in the Tiruchirappalli Division, there was no vacancy at that time. Thereafter, the department has sent a letter dated 18.12.1995 stating that she was allotted to the post of Group 'D' employee that there are only 6 Group 'D' posts available in the Trichirappalli Division and out of '6' posts, '5' posts are Chowkidar posts and one is water carrier post and as there was no vacancy, willingness of the 2nd respondent's mother Santhayee was called for, for allotment to other Division of her choice and also to intimate the name of the Division, if she was willing to work. But there was no response from the 2nd respondent's mother to that letter.

7. After 3 years, on 16.06.1998, one representation was received from the 2nd respondent herein, that he passed XII and he has completed 18 years and requested to consider him for the post of Postal Assistant at Tiruchy on compassionate ground. As his mother Santhayee was approved for Group 'D' post and willingness was called for from her vide letter of Senior Superintendent of Post Offices, Tiruchirappalli Division dated 29.06.1998



W.P.No.30380 of 2019

WEB COPY

to work as Group 'D' in leave arrangements in Post Office near her native place till allotment is made by the 1st respondent's office. For which, the mother of the 2nd respondent Santhayee has replied that she was physically unwell and unable to work as Group 'D' and instead she requested to consider her son Muthukumaran, the 2nd respondent herein, for the post of Postal Assistant.

8. Pursuant to the representation of the 2nd respondent dated 16.06.1998 to consider him for the post of Postal Assistant, the 1st respondent vide letter dated 06.07.1998 called for necessary documents along with consent letter of Santhayee for submitting the case to the Circle Selection Committee. Thereafter, due to the Circular dated 24.11.2000, it was not processed and the waiting list already kept, was also dispensed with, as instructed by the letter of Postal Department dated 25.07.2001 and it was decided to consider such waiting listed candidates for the post of Gramin Dak Sevak [GDS]. If they are willing and eligible, willingness was called for from the approved candidates. As such, the mother of the 2nd respondent was also addressed by the Postal Department through letter dated 30.05.2001. But the mother of the 2nd respondent requested to



W.P.No.30380 of 2019

WEB COPY

consider her son for the post of Postman or equivalent cadre under compassionate appointment through her reply dated 05.06.2001.

9. Aggrieved over the above said order issued by the Postal Directorate for discontinuing the waiting list and offering GDS posts to willing candidates, some of the approved candidates in Group C and Group D cadre have filed O.As., before the Central Administrative Tribunal in 2001. Neither the 2nd respondent nor his mother filed any OA at that point of time. In the above said O.As, the Tribunal has passed order dated 30.10.2002. As against the above said order, the department has already filed Writ petitions before this court and the same were also dismissed vide common order dated 20.06.2007 with a direction to regularize the services of RNR candidates. Thereafter, the department has filed S.L.P. No.2976 of 2008 before the Hon'ble Supreme Court and the Hon'ble Supreme Court passed order on 30.07.2010 to regularize the candidates who were working as on 27.10.2009 and the same was also implemented by the petitioners/Postal Department.



W.P.No.30380 of 2019

WEB COPY

10. Thereafter, the 2nd respondent requested for employment even as Gramin Dak Sevak as per the new rules through his representations dated 07.10.2002 and 20.12.2002. The department was also replied through letter dated 15.10.2003 stating that his case could not be considered in view of abolition of waiting list by the Postal Directorate.

11. Therefore, from the above, it is clear that the department has offered employment to the mother of the 2nd respondent and she has not consented but she requested for employment for her son. Already the department has rejected the request of the mother of the 2nd respondent on 15.10.2003 and the same was not challenged and further since the year 1995 itself, the department informed the mother of the 2nd respondent about the non-vacancy in the Tiruchirappalli Division and thereafter, called for her willingness to work in other Division but the mother of the 2nd respondent has not responded and again in the year 1998, the department called for willingness to work in leave arrangements and she was not willing to work due to her illness. Thereafter only, she requested for compassionate appointment for her son and the same was also rejected by the department on the ground that already waiting list was discontinued. The mother of the 2nd respondent has not responded to the letter given by



W.P.No.30380 of 2019

WEB COPY

the postal department from the year 1995 to 2000. Thereafter she made request to give compassionate appointment for her son. Therefore, the 2nd respondent and her mother have not responded to the offer given by the Postal Department for a long time and subsequently after considerable period of time, the 2nd respondent made a request for appointment and the same was also correctly rejected. The Central Administrative Tribunal without considering the above said delay and laches by the respondents, erroneously had allowed the application by directing the Postal department to consider the request of the 2nd respondent for employment on compassionate ground independently of the offer made to his mother in the relevant year. Therefore, the order passed by the Tribunal is unsustainable and the same is liable to be set aside.

12. IN THE RESULT, this Writ Petition is allowed and the order passed by the Central Administrative Tribunal in O.A. No.1715 of 2016 dated 13.08.2018 is set aside. No costs. Connected miscellaneous petition is closed.

(D.K.K.J) & (P.D.B.J)

14.12.2023

mjs

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No



WEB COPY



W.P.No.30380 of 2019

D.KRISHNAKUMAR, J.,
and
P.DHANABAL,J

(mjs)

To

The Registrar,
Central Administrative Tribunal,
Chennai.

Pre-delivery judgment in
W.P.No.30380 of 2019

14.12.2023