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W.P.No.583 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.583 of 2022

S.K.Shamugaraja

... Petitioner

Vs.

1.Union of India,
Rep. by the Assistant Director General (GDS),
Ministry of Communication & IT,
Department of Posts,
Dak Bhavan,
Sansad Marg,
New Delhi – 110 001.

2.The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai – 600 002.

3.The Superintendent of Posts Offices,
Tambaram Division,
Chennai – 600 045.

4.Central Administrative Tribunal,
Madras Bench,
Rep. by its Registrar.
Chennai – 600 104.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of 4th respondent pertaining to its order which is made in OA/310/01753/2016 dated 16.08.2018 and quash the same, consequent to direct the respondents 1 to 3 to appoint the petitioner on compassionate grounds with all service benefits.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.V.Ashok Kumar (for R1-3)
Central Government Standing Counsel
Tribunal (R4)

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The order of Central Administrative Tribunal in OA/310/01753/2016 dated 16.08.2018 is sought to be quashed in the present Writ proceedings.

2. The applicant before the Tribunal is the petitioner before this Court. The petitioner submitted an application seeking appointment on compassionate ground as Gramin Dak Sevak (GDS) on the ground that his father was working as GDS Mail Packer in postal department and died in service on 06.03.2011. The application submitted by the petitioner was scrutinized by the respondent and rejected in proceedings dated 02.09.2016. The New scheme was introduced in the postal department to provide compassionate appointment for most deserving candidates, on the basis of the indigent circumstances, which is to be



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assessed by the duly constituted committee. The case of the petitioner was scrutinized by the committee constituted, who in turn awarded relative merit points of 17 points. Further, the case of the petitioner was not considered, on the ground that, he do not possess the minimum educational qualification for appointment to the post of GDS. The Tribunal considered the issues and made a finding that the reason stated in the impugned order is in consonance with the scheme of compassionate appointment.

3. Mr.R.Malaichamy, learned counsel for the petitioner would submit that the scheme of compassionate appointment is to provide appointment to the legal heirs of the deceased employee and therefore, the minimum educational qualification can be possessed after appointment and within 5 years, as per the clarification issued by the Government of India. In this regard, the learned counsel for the petitioner would rely on the qualification issued by the Government of India in Official Memorandum dated 03.04.2012.

4. It is further contended that non consideration of the name of the petitioner for compassionate appointment is perverse, as the scheme's purpose is to provide assistance to the legal heirs of the deceased employee. Therefore, the Tribunal has committed an error in not issuing a direction as such sought for in



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the original application.

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5. Mr.V.Ashok Kumar, learned Central Government Standing Counsel appearing on behalf of the respondents 1 to 3 would oppose by stating that the case of the petitioner was considered as per the terms and conditions stipulated under the scheme of compassionate appointment. The relative merits must be evaluated amongst applicants seeking compassionate appointments.

6. Learned Central Government Standing Counsel would further submit that the Circle Relaxation Committee has to consider all the applications and to determine the relative merits between the families of the applicants for the purpose of providing appointment on compassionate grounds. However, the case of the petitioner was considered by the Committee and he was not within the zone of consideration. Therefore, order of rejection was issued. Whenever the Committee identify the eligible family for providing employment assistance, the same will be provided subject to availability of vacancies earmarked for compassionate appointments. The case of the petitioner will be considered, when the petitioner falls within the zone of consideration.

7. We have considered the rival submissions made between the



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learned counsel for the petitioner and the learned Additional Solicitor General of India appearing on behalf of the respondents.

8. The Official Memorandum dated 03.04.2012 relied by the petitioner is a clarification issued regarding regulation of conditions and admissibility of various allowances for the implementation of Sixth Central Pay Commission recommendation. The said clarifications are no way connected with the compassionate appointment scheme and the eligibility criteria for appointing the legal heirs of the deceased employee under the scheme of compassionate appointment.

9. The scheme of compassionate appointment is a concession, and not an absolute right. The scheme is not falling under the constitutional scheme of appointments. Scheme being violative of Articles 14 and 16 of the Constitution of India, appointment on compassionate grounds are to be made scrupulously, adhering to the eligibility criteria fixed under the scheme by the Union of India.

10. Compassionate appointments can never be claimed as an absolute right. All appointments are to be made strictly under the constitutional scheme and by following the procedures as contemplated under the Recruitment Rules.



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11. Compassionate appointments, if provided to larger extent, it would result in infringement of Fundamental Rights of citizens, who all are aspiring to secure public employment through open competitive process. Compassionate appointment being a special scheme, it is to be implemented only to the extent of providing employment assistance to the most deserving families to be identified by following the eligibility criteria fixed by the employer concerned.

12. Lakhs and Lakhs of youth of our Great Nation are longing to secure employment through open competitive process. No merit assessment has been made under the scheme of compassionate appointment. Rule of Reservations are not followed. Death of an employee alone is taken into consideration for providing a public appointment to one of the legal heir of the family of the deceased employee. While so, the benefit is to be extended by assessing the penurious circumstances of the family and the other criteria fixed for providing appointment on compassionate grounds. Mere death of an employee alone is not a criteria for providing an appointment on compassionate grounds.

13. The primary object is not to provide one appointment to the family



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of the deceased employee. The purpose and object is to mitigate the circumstances arising on account of the sudden death of an employee and considering the family's indigent circumstances. The overall income of the family and other aspects are to be considered by the Committee meticulously for the purpose of providing an appointment on compassionate ground.

14. The Government of India constituted the Circle Relaxation Committee to assess applications filed. The Committee scrutinizes applications considering the case of the applicants based on relative merits, indigent circumstances, and availability of vacancies earmarked for compassionate appointments.

15. Since scheme of compassionate appointment is a concession, and not a right, this Court do not find any reason to interfere with the findings made by the Central Administrative Tribunal, which all are in consonance with the established principles to be adopted in the matter of providing an appointment on compassionate grounds. As rightly held by the Central Administrative Tribunal, if the case of the applicant is found within the zone of consideration as per the eligibility criteria fixed under the scheme of compassionate, it is to be considered by scrupulously following the terms and conditions.



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WEB COPY 16. In view of the above principles, we do not find any reason to interfere in the order of the Central Administrative Tribunal. Consequently, the order made in OA/310/01753/2016 dated 16.08.2018 passed by the Central Administrative Tribunal is confirmed. Consequently, the Writ Petition is dismissed. No costs. The connected Miscellaneous Petition, if any, stands closed.

[S.M.S., J.]

[M.J.R., J.]

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Index: Yes/No

Speaking/Non-speaking order

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