



WEB COPY

W.P.No.9443 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.9443 of 2019

M.Prabhu

... Petitioner

Vs.

1.The Union of India,
Represented by The Chief Post Master General,
Tamil Nadu Circle, Chennai – 600 002.

2.The Senior Superintendent of Post Offices,
RMS 'T' Division, Tiruchirapalli – 620 001.

3.The Central Administrative Tribunal,
Madras Bench represented by its Registrar,
Chennai – 600 104.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in OA/310/01305/2018 dated 03.10.2018 and quash the same and direct the respondents 1 and 2 to appoint the petitioner on compassionate grounds in any suitable job and grant him all consequential benefits.



W.P.No.9443 of 2019

For Petitioner : Mr.P.Rajendran
For R1 & R2 : Mr.AR.L.Sundaresan
Additional Solicitor General of India
Assisted by Mr.R.Subramanian
Central Govt. Standing Counsel
For R3 : Tribunal

ORDER

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

Under assail is the order dated 3rd October, 2018 passed in OA/310/01305/2018 on the file of the Central Administrative Tribunal, Chennai Bench.

2. The petitioner submitted an application seeking appointment on compassionate grounds due to the death of his father, Late Mr.P.A.Murugesan, who worked as a Sorting Assistant in the Postal Department at the Railway Mail Service (RMS), Trichy Division. The father of the petitioner died on 10.06.2008, while he was in service at the age of 57 years leaving behind his wife, two sons and one daughter as legal heirs.



3. On account of the sudden death of the Mr.P.A.Murugesan / employee, the family claimed that they were in indigent circumstances and consequently filed an application seeking appointment on compassionate grounds under the scheme. However, the application originally submitted immediately after the death of the employee was rejected by the Chief Post Master General, Tamil Nadu Circle, Chennai in proceedings dated 08.06.2012. The reason assigned for rejection were that the family of the deceased employee was less indigent as per relative merit points and non-availability of direct recruitment vacancies.

4. The petitioner subsequently filed OA.No.1426 of 2012 before the Central Administrative Tribunal. On 15.09.2014, Tribunal directed to consider the case of the petitioner in respect of the subsequent vacancies aroused and allotted for compassionate appointments. Pursuant to the direction, the Chief Post Master General placed the application before the Circle Relaxation Committee for consideration. However, the Committee declined to recommend the case of the petitioner due to non-availability of direct recruitment vacancies in the respective cadre under RRR quota and less indigent as per relative merit points under RRR quota.



5. Not satisfied with the said order, the petitioner again filed OA.No.1421 of 2017 challenging the said order of the Central Administrative Tribunal. The Tribunal passed second order on 03.01.2018, directing the respondents to inform the petitioner about the details regarding the number of post for which Direct Recruitment under RRR quota was considered and the relative merit points obtained by the last selected candidate.

6. In implementation of the directions issued by the Central Administrative Tribunal, the respondents again issued a memo dated 03.05.2018, thereby not considered the case of the petitioner for compassionate appointment. Thus, the third original application was filed in O.A.No.1305 of 2018, which was considered by the Tribunal and the Tribunal in its impugned order made a finding that directions to reconsider the case of the petitioner would serve no purpose and agreed with the findings of the Committee as affirmed by the respondents, dismissed the original application. Challenging the said order, the present writ petition came to be instituted.

7. The learned counsel for the petitioner would submit that the family of the petitioner is in indigent circumstances during the relevant point of time



W.P.No.9443 of 2019

on account of the sudden death of the father of the petitioner. Thus, the application made in time ought to have been considered pursuant to the directions issued by the Central Administrative Tribunal. Further, the relative merit points and the methodology adopted were not communicated to the petitioner, which resulted in institution of repeated original applications before the Tribunal.

8. 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 the original application.

9. Mr.AR.L.Sunderesan, learned Additional Solicitor General of India appearing on behalf of the respondents 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.

10. Learned Additional Solicitor General of India would further



W.P.No.9443 of 2019

submits 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 thrice by the Committee and he was not within the zone of consideration. Therefore, order of rejections were 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.

11. We have considered the rival submissions made between the learned counsel for the petitioner and the learned Additional Solicitor General of India appearing on behalf of the respondents.

12. 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.

WEB COPY

13. 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.

14. 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.

15. 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.

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

17. 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.

18. Since scheme of compassionate appointment is a concession, and



W.P.No.9443 of 2019

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.

19. With the above observations, the order impugned passed by the Central Administrative Tribunal / 3rd respondent in OA/310/01305/2018 dated 03.10.2018 stands confirmed and the Writ Petition is dismissed. No costs.

[S.M.S., J.] [M.J.R., J.]
04.11.2024

Index : Yes
Speaking order / Non-speaking order
Neutral Citation : Yes
Jeni



W.P.No.9443 of 2019

To
WEB COPY

1. The Chief Post Master General,
The Union of India,
Tamil Nadu Circle, Chennai – 600 002.
2. The Senior Superintendent of Post Offices,
RMS 'T' Division, Tiruchirapalli – 620 001.
3. The Registrar
The Central Administrative Tribunal,
Madras Bench,
Chennai – 600 104.



WEB COPY



W.P.No.9443 of 2019

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

Jeni

W.P.No.9443 of 2019

04.11.2024