



W.P.No.19883 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

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M.Senthil Kumar

... Petitioner

Vs.

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

2.The Superintendent,
RMS “CB” Division,
Coimbatore – 620 001.

3.The Central Administrative Tribunal,
Chennai Bench,
represented by its Deputy 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/310/00323/2015 dated 12.09.2018 and quash the same and direct the respondents 1 and 2 to appoint the petitioner on compassionate grounds in



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any suitable job and grant him all consequential benefits.

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For Petitioner	: Mr.P.Rajendran
For R1 & R2	: Mr.AR.L.Sundaresan Additional Solicitor General of India Assisted by Mr.N.Ramesh Senior Panel Counsel
For R3	: Tribunal

ORDER

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

Under assail is the order dated 12th September, 2018 passed in OA/310/00323/2015 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.M.Murugesan, who worked as HSG-II, HAS, Railway Mail Service (RMS), Coimbatore Division at Tiruppur. The father of the petitioner died on 30.11.1996, leaving behind his wife and son / petitioner as legal heirs.



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3. On account of the sudden death of the Mr.M.Murugesan / employee, the family claimed that they were in indigent circumstances and the mother of the petitioner filed an application seeking appointment on compassionate grounds under the Relaxed Recruitment Rules (RRR) along with required documents for her son / petitioner. No action was taken for about 14 years. Thereafter, the petitioner was appointed as Mazdoor on 30.12.2010. It was a oral appointment and no written order of appointment has been issued and allowed to continue as daily wage employee.

4. The petitioner states that he has passed SSLC and eligible for regular appointment in the sanctioned post in the time scale of pay. Instead of appointing the petitioner in the sanctioned post, the petitioner was engaged as daily rated employee. The petitioner subsequently filed OA.No.1674 of 2014 before the Central Administrative Tribunal for a direction to the respondent to appoint him in the regular post on compassionate grounds. The Central Administrative Tribunal passed an order on 02.12.2014 directing the 1st respondent to consider the representation and pass orders within a period of eight weeks. On 29.01.2015, the 2nd respondent passed an order stating that the application submitted by the petitioner was placed before the Circle Relaxation Committee for consideration. However, the Committee declined



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to recommend the case of the petitioner mainly on two grounds, firstly, less indigent as per relative merit points and secondly, non-availability of 5% Direct Recruitment Vacancy.

5. Not satisfied with the said order, the petitioner again filed OA.No.323 of 2015, to set aside the order and to appoint him on compassionate grounds. The Tribunal dismissed the application, which resulted in institution of the present writ petition.

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

7. 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.



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WEB COPY 8. 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.

9. Learned Additional Solicitor General of India would further 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.

10. 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.

11. 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.

12. 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.

13. 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



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families to be identified by following the eligibility criteria fixed by the employer concerned.

14. 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.

15. 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 over all 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.



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WEB COPY 16. 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.

17. 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 18. With the above observations, the order impugned passed by the Central Administrative Tribunal / 3rd respondent in OA/310/00323/2015 dated 12.09.2018 stands confirmed and the Writ Petition is dismissed. No costs.

[S.M.S., J.] [M.J.R., J.]
04.11.2024
(1/2)

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

Jeni

To

- 1.The Chief Post Master General,
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- 2.The Superintendent,
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