

**Central Administrative Tribunal
Ernakulam Bench**

O.A No.180/00926/2019

Tuesday, this the 1st day of June , 2021

C O R A M :

HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

1. A.Ponnaiah, aged 67 years
F/o.Late Rajkumar.P
Subbaraja Bhavan, Near State Bank of India
Devikulam, Devikulam Taluk, Idukki District
Pin – 685 613, Phone No.9496453297
 2. Subbalakshmi, aged 64 years
W/o.A.Ponnaiah and
M/o. Late Rajkumar P, Subbaraja Bhavan
Near State Bank of India
Devikulam, Devikulam Taluk, Idukki District
Pin – 685 613, Phone No.8281977297
 3. R.Rajeshwaran, aged 17 years, S/o.Late Rajkumar.P
Now presently residing at B VII/33, ISRO Staff Quarters
Thumba, Pallithura P.O, Thiruvananthapuram, Pin – 695 586
Represented by his Grandfather A.Ponnai
 4. Adithyan.R, aged 14 years, S/o.Late Rajkumar P
Now presently residing at B VII/33, ISRO Staff Quarters
Thumba, Pallithura P.O, Thiruvananthapuram, Pin – 695 586
Represented by his Grandfather A.Ponnaiah
- ...Applicants

(By Advocate Mr.Rajesh Nair)

v e r s u s

1. Vikram Sarabhai Research Centre
Indian Space Research Organization, Thumba
Thiruvananthapuram, Pin – 695 022, represented
By its Director
2. The Chairman
Indian Space Research Organization
Antariksh Bhavan, New BEL Road
Bangalore, Pin – 560 094
3. The Director, Vikram Sarabhai Research Centre
Indian Space Research Organisation, Thumba

Thiruvananthapuram, Pin – 695 022

4. The Senior Head, PGA, Vikram Sarabhai Research Centre
Indian Space Research Organisation, Thumba
Thiruvananthapuram, Pin – 695 022.4
5. Administrative Officer, Vikram Sarabhai Research Centre
Indian Space Research Organisation, Thumba
Thiruvananthapuram, Pin 695 022
6. Smt. Murigeshwari Rajkumar, W/o.Late Rajkumar
Presently residing at VII/33, ISRO Staff Quarters, Thumba
Thiruvananthapuram, Pin – 695 022Respondents

(By Advocate : Mr.N.Anilkumar, SCGSC for R 1-5 Mr.Alfred Lionel Winston.M for R-6)

This application having been heard on 31.03.2021, this Tribunal on 1.6.2021 delivered the following :

ORDER

HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER

This is an Original Application filed seeking the following reliefs:

“(a) To consider the case of the 3rd applicant to a suitable post in the respondents and to appoint him based on the compassionate basis with reference to the death of his father Late Rajkumar. P.

(b) To direct the respondents to pay gratuity, Leave encashment benefits and amount liable to be paid as LIC Insurance and all other eligible monetary benefits due to and in the name of Late Rajkumar. P to the applicants only.

(c) Grant any other further reliefs or orders as deemed fit by this Hon'ble Tribunal in the interest of equity, justice, fairness and good conscience.

(d) Award the costs of these proceedings. “

2. The first and second applicants, in this case, are the father and mother of Late

Rajkumar. P who was working as a Fireman (C) Grade in Vikram Sarabhai Research Centre, Thumba, Thiruvananthapuram. Applicant Nos. 3 and 4 are the children of Late Rajkumar.P. Respondent Nos.1 to 5 are the official respondents and respondent no.6 is the wife of Late Rajkumar. P and the mother of applicant nos.3 and 4.

3. According to applicant nos.1 and 2, they have filed the present Original Application representing applicant nos.3 and 4 who are the children of Late Rajkumar. P, an employee of first respondent organisation as Fireman(C) Grade in the Fire Department. According to the applicants, Late Rajkumar applicant nos.3,4 and respondent no.6 were residing together in the same house. Late Rajkumar had gone on a picnic to Marayur in Idukki District along with his friends on 12.10.2018. Unfortunately, Late Rajkumar drowned in the Pambar river near Marayur and he could not be rescued. According to the applicants, on 13.02.2019, his physical remain was found at Pambar and hence the Kanthaloor Panchayath issued a Death Certificate for the death of Late Rajkumar. Applicant no. 3 is aged 17 years and applicant no.4 is aged 14 years. The applicants are still suspicious regarding the cause of death of Late Rajkumar. After the death of Rajkumar, the respondent no.6, i.e, the wife of Late Rajkumar, had given an application to the official respondents seeking employment to applicant no.3 who was a minor at that time. A copy of such representation is produced as Annexure A-2. The 6th respondent, after the death of her husband, is not taking care of her children (applicants no.3 and 4). The applicants suspect that she has an affair with her friend and she is not taking care of her children. The applicants reliably understand that the amount due from leave encashment benefit and the amount liable to be received from LIC and all other eligible monetary benefits are not paid yet. The 6th

respondent is not entitled to get any benefit in her favour. The 6th respondent is also trying to grab employment on compassionate grounds. The applicants are in grave financial difficulties and they are finding it difficult to meet the expenses of applicants no.3 and 4. Accordingly, applicants have submitted a joined representation on 9.12.2019 before the respondents for not disbursing any gratuity, leave encashment benefits and amount liable to be paid from LIC and all other eligible monetary benefits due to and in the name of Late Rajkumar.P. True copy of the postal receipt and copy of the representation is produced as Annexure A-3 and Annexure A-4. Now the third applicant has attained the age of 18 years on 30th August 2019. The 6th respondent is not at all interested in the well-being of children. So they had sought for compassionate appointment to applicant no.3 who has now become a major. So the applicants have approached this Tribunal praying for the aforementioned reliefs.

4. The respondents entered appearance and filed their detailed reply statement. According to them, Late Rajkumar.P joined the service as Catering Attendant. Later, he was selected for the post of Fireman. While he was working as Fireman-C, he was reported missing since 13.10.2018 while he was on tour to Marayur in Idukki District. Since he was not traceable, an FIR No.0208 dated 13.10.2018 was lodged and a copy of the same is produced as Annexure R1(a). Subsequently, the Kanthaloor Gramapanchayat, Idukki District had issued Annexure A-1 Death Certificate on 27.07.2019. It shows that Rajkumar.P died on 13.02.2019. The suspicions of the applicants can be cleared by investigation by the police. The Late Rajkumar.P had given family details statement while he was working in the respondents' organisation. The same is produced as Annexure R1(b). According to the respondents, they have not received any representation given by respondent

no.6 seeking compassionate appointment for applicant no.3. According to the respondents, the Department is following the Compassionate Appointment Scheme issued by the Department of Personnel and Training during the year 1998. The said Scheme is produced as Annexure R1(d). As per Clause 12(a) of the Scheme for Compassionate Appointment, if a Government Servant is found to be missing, the benefit of compassionate appointment can be considered only after a lapse of two years from the date from which the Government Servant has been reported missing. As such, two years has to be completed from 21.12.2018 for granting compassionate appointment. Further, the dependant family member has to apply for compassionate appointment in the prescribed proforma. As regards the personal allegations against respondent no.6, the official respondents have no information. The respondent organisation is liable to pay the death benefits to the dependant family member/members of Late Rajkumar.P based on the nominations submitted by him for the purpose while in service. But the respondents have no control over the payment of LIC Insurance amount. According to the respondents they had also granted a family pension to respondent no.6 as she is the widow. She is also entitled to get death gratuity. She was granted a family pension of Rs.15,700/- per month from 14.02.2019 to 13.02.2029 and at the ordinary rate of Rs.9420/- per month w.e.f 14.02.2029. A copy of the pension calculation statement is produced as Annexure R1(e). It is also submitted by the respondents that for Gratuity, Provident Fund and benefit under Central Government Employees Group Insurance Scheme (CGEGIS) etc they are paid based on the nominations submitted by the employee for the purpose while in service. He had given nominations on 18.01.2008 and he had nominated respondent no.6 Smt.Murugeswari for the same. According to them, now only an amount of Rs.70,336 is retained from Gratuity for the purpose of rent to be paid for accommodation. An amount of Rs.35,776/- is retained from the

Savings Fund and Insurance Fund of the late employee. Another Rs.14,596/- from accumulations and its interest from Provident Fund is also with the respondent. According to the official respondents, the 6th respondent has given an application for a compassionate appointment before the 3rd respondent even before applicant no.3 has become a major. The said application has to be processed on the basis of guidelines issued by the Department of Personnel and Training and on the basis of per capita income calculated. On receipt of the Death Certificate of Late Rajkumar.P, the Welfare Officer of the respondents centre has verified the details and found that applicant no.3 was minor. Hence applicant no.3 was not considered by the Review Committee for a compassionate appointment along with other cases and the Committee based on the financial position of the family and eligibility of the dependents, respondent no.6 was found eligible for a compassionate appointment. As per the provisions of the Scheme, the spouse is the first person to be considered for a compassionate appointment. The respondent organisation has to follow strictly the guidelines issued by the Government for considering the compassionate appointment.

5. Respondent no.6 had also filed a detailed reply denying the allegations made in the Original Application. She has also challenged the authority of first and second applicants to file a case for and on behalf of applicant nos.3 and 4. She is the natural guardian and when there is a natural guardian alive, it is for her to file the O.A. According to the 6th respondent, she has not given any representation for giving compassionate appointment to applicant no.3. According to her, the first applicant and her brothers had approached her immediately after the death of Late Rajkumar and obtained a signature in plain paper. Nothing was written in the same. Annexure A-2 representation is a fabricated document and the official respondents

had denied the receipt of the same. She also states that there is no merit in the contention put forward by the first applicant and second applicant that they are under grave financial difficulties. They were not depending on Mr.Rajkumar as the first applicant himself is a pensioner.

6. We have gone through the pleadings and Annexures produced in this case. It is noticed that the 6th respondent, i.e, the wife of the deceased employee is alive and she is the first person who can seek a compassionate appointment as per the records of the respondents. As per the records of the respondents, they have not received any representation for giving employment to applicant no.3 as and when he becomes a major. According to respondent no.6, Annexure A-2 is a fabricated document and it cannot be relied upon. According to respondent no.6, she had in fact given an application in the prescribed format for getting a compassionate appointment. According to her, she is a handicapped widow and she is the most eligible person for getting a compassionate appointment.

7. We have also gone through the pleadings regarding the death benefits of Late Rajkumar.P. It has come out in the reply statement of the respondents that almost all death benefits are processed and paid to respondent no.6 as she is the legally nominated person for getting the due amount. Respondents had produced the family statement of the deceased employee and they had disbursed the amount on the basis of valid nomination. There is nothing more to be realised. On a perusal of the Scheme of Compassionate Appointment, which is produced as Annexure R1(d), the persons eligible for compassionate appointment are:

“ Dependent Family Member “ means:

- (a) Spouse; or
 - (b) Son (including adopted son); or
 - (c) Daughter (including adopted daughter); or
 - (d) Brother or sister in the case of unmarried Government servant or
 - (e) Member of the Armed forces referred to in (A) or (B) of this para,
- who was wholly dependant on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.

8. From the above, it can be seen that the spouse is the first person to receive a compassionate appointment and their children come only second. The 6th respondent has already applied for a compassionate appointment even prior to the attainment of the majority by applicant no.3. According to the respondents, the same is processed and it is in the final stage. The allegations made against respondent no.6 was not properly proved and there is no material to show that respondent no.6 will not take care of the children. In these circumstances, we find that there is no merit in the contentions raised in the O.A. The respondents are liable to process the compassionate appointment on the basis of the relevant scheme available. The remaining amount, if any, will be disbursed on the basis of nominations filed by Late Rajkumar.P. There is no merit in the Original Application and it is liable to be dismissed.

9. The Original Application is disposed of as above. No costs.

(K.V.EAPEN)
ADMINISTRATIVE MEMBER

(P.MADHAVAN)
JUDICIAL MEMBER

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List of Annexures

- Annexure A1 - True copy of the Death Certificate (No.D0020580-1907181)
- Annexure A2 - True copy of the representation dated 21.12.2018 submitted by Smt.Murugeshwari, the 3rd respondent
- Annexure A3 - True copy of the representation dated 9.12.2019
- Annexure A4 - True copy of the postal receipts of Annexure A3 representation sent by the applicants to the respondents
- Annexure A5 - True copy of the Resident Pass issued by the respondents in the name of the 3rd applicant
- Annexure R1(a) - A copy of FIR No.0208 dated 13.10.2018 lodged by Sub-Inspector of Marayoor Police Station, Idukki district (with English translation)
- Annexure R1(b) - A copy of the family details sheet submitted by Late Rajkumar to the 1st respondent Centre
- Annexure R1(c) - A copy of the letter dated 12.11.2018 received from 6th respondent (with English translation)
- Annexure R1(d) - A copy of the DoPT OM F.No.14014/02/2012-Estt(D) dated 16.01.2013
- Annexure R1(e) - A copy of pension calculation statement dated 5.11.2019
- Annexure R1(f) - A copy of the nomination dated 18.1.2008 for Death-cum-Retirement-Gratuity submitted by Shri.Rajkumar.
- Annexure R1(g) - A copy of the nomination dated 18.1.2008 for Provident fund submitted by Shri.Rajkumar
- Annexure R1(h) - A copy of the nomination dated Nil for Central Government Employees Group Insurance Scheme submitted by Shri.Rajkumar
- Annexure R1(i) - A copy of the communication No.2/1(4)/99-1 dated 28/10/2005 issued by the Joint Secretary, DOS
- Annexure R1(j) - A copy of the communication No.2/1/5/2001-I (Vol.III) dated 1.3.2010 issued by the Deputy Secretary, DOS

Annexure R1(k) - A copy of the DOS OM No.A.12011/1/2001-I(Vol.IV) dated 2.1.2020

Annexure R1(l) - A copy of the application seeking compassionate appointment to the spouse of Late Rajkumar.P

Annexure A6 - True copy of application for appointment on compassionate basis submitted by the 3rd applicant before the respondents on 24.9.2020

Annexure A7 - True copy of Letter/Communication/Notice No.VSSC/P&GA/EMT/B/VII-33/2020 dated 9th of September 2020 issued by the 5th respondent addressed to the 6th respondent

Annexure A8 - True copy of letter dated 25.09.2020 addressed to the respondents by the applicants.

Annexure R1(m) - A copy of the allotment order No.VSSC/P&GA/EMT/Shop-19/2010 dated 18.08.2010

Annexure R1(n) - A copy of the communication dated 18.09.2020 extending the license to run the shop up to 10.08.2021

Annexure R1(o) - A copy of the communication No.VSSC/P&GA/EMT/VII-33/2011 dated 21.02.2019

Annexure R1(p) - A copy of the letter dated 15.09.2020 submitted by the 6th respondent

Annexure R1(q) - A copy of the letter dated 8.10.2020 submitted by the 6th respondent

Annexure R1(r) - A copy of the communication No.VSSC/P&GA/EMT/B/VII-33/2020 dated 5.11.2020 permitting to retain the quarters up to 12.02.2021.

Annexure MA-R6(a) True copy of counter foil of State Bank of India dated 28.10.2020

Annexure MA-R6(b) True copy of Notification issued by the PIB, Delhi dated 13.12.2019

Annexure MA-R6(c) True copy of order No.VSSC/P&GA/EMT/B/VII-33/2020 dated 5.11.2020

Annexure MA-R6(d) True copy of receipt dated 11.11.2020

Annexure R6(a) - True copy of Notification issued by the PIB, Delhi dated 13.12.2019

Annexure R6(b) - True copies of school fees receipts dated 6.8.2019 paid for the applicant's 3 and 4 by this respondent

Annexure R6(c)/(1) True copy of recovery notice issued from Department of Space employees housing co-operative society dated 28.10.2019

Annexure R6(c)(2) True copy of the receipt dated 21.11.2019 evidencing the repayment of Rs.2,00,000/- to department of space housing co-operative society by this respondent

Annexure R6(d)(1) True copies of receipt dated 28.11.2019 evidencing the repayment of society loans

Annexure R6(d)(2) True copies of receipt dated 6.1.2020 evidencing the repayment of society loans

Annexure R6(d)(3) True copies of receipt dated 6.3.2020 evidencing the repayment of Bajaj loan

Annexure R6(d)(4) True copy of counterfoil dated 2.12.2019 evidencing the repayment of loan to Usha

Annexure R6(d)(5) True copy of counterfoil dated 6.1.2020 evidencing the repayment of loan to Usha

Annexure R6(e) True copy of legal notice dated 30.12.2020 received by this respondent for repaying Rs.63,225/- for car loans in HDFC

Annexure R6(f) True copy counter foil of State Bank of India dated 28.10.2020 evidencing the payment of college fees by the respondent

Annexure R6(g) True copy of order No.VSSC/P&GA/EMT/B/VII-33/2020 dated 5.11.2020

Annexure R6(h) True copy of receipt dated 11.11.2020.