

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No. 427 of 2007

*Friday*, this the 11<sup>th</sup> day of January, 2008

**C O R A M :**

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

C.K. Chellamma,  
Kakkanattuthara House,  
Nayarambalam,  
Ernakulam District : 582 509

... Applicant.

(By Advocate Mr. C.S.G. Nair)

v e r s u s

1. Union of India,  
Represented by the Secretary,  
Ministry of Works & Housing,  
Nirman Bhavan, New Delhi : 110 001

2. Chief Engineer (Electrical),  
South Zone - 1,  
CPWD II<sup>nd</sup> Floor,  
Rajaji Bhavan, Besant Nagar,  
Chennai : 600 090

3. Superintending Engineer (Co-Ordination),  
CPWD, Rajaji Bhavan,  
Besant Nagar, Chennai : 600 090

4. Executive Engineer (Electrical),  
CPWD, Kochi Central Electrical Division,  
'A' Block, 4<sup>th</sup> Floor, Kendriya Bhavan,  
Kakkanadu, Cochin : 682 037

... Respondents.

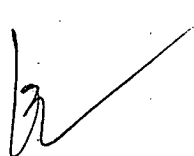
(By Advocate Mrs. Mini R. Menon, ACGSC)

**O R D E R**

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

3. An inadvertent error emanating from non-adherence to rules of procedure prolongs the life of litigation and gives rise to avoidable complexities. The present one is a typical example wherein a stitch in time would have saved nine.

Lakshmi Ram Bhuyan v. Hari Prasad Bhuyan, (2003) 1 SCC 197

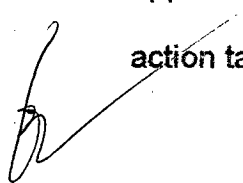


2. The applicant, an aspirant for appointment on compassionate ground has challenged the impugned order dated 19th May, 2007 whereby her application for compassionate appointment was rejected due to non availability of vacancies.

3. The brief facts as culled out from the pleadings are as under:-

- (a) The applicant is the wife of Late K.K. Baby, who was working as Electrical Khalasi and who died 22-09-2002 at the age of 44, leaving behind his wife, one daughter aged 12 years, one son aged 5 years and widowed mother. On his death, his family was paid certain terminal benefits which accounted for a total of Rs 43,000/- plus a monthly family pension of Rs 1,600/- which after 7 years would be depleted to Rs 1,275/-. The applicant has family property stated to be worth Rs 45,000/-.
- (b) The applicant applied for compassionate appointment under the scheme in vogue (Annexure A-1), vide representation dated 07-11-2002 (Annexure A-2) and the workers union had also requested for grant of compassionate appointment to the applicant, vide Annexure A-3. The representation was followed by another one in the prescribed format, vide Annexure A-4 communication dated 28-07-2003 and later on by Annexure A-7 letter dated nil July, 2006.. The Workers' Union on their part issued one expediter, vide Annexure A-5 letter dated 10-01-2004 followed by yet another one, vide Annexure A-6. It was ultimately by the impugned Annexure A-8 order dated 19th May, 2007 that the respondents have rejected the case and hence, this OA.

4. Respondents have contested the case. According to them, the case has to be considered at the level of Chief Engineer first and then to be referred to the Committee subject to fulfillment of certain conditions and total number of consideration would be for three years. In the instant case, there was not any delay in dealing with the matter and the applicant has failed to provide the necessary Legal Heir-ship certificate for processing the application for which the applicant was to be reminded in March, 2003. Waiting list being in existence, the action taken by the respondents is in order.



5. Applicant has filed her rejoinder contending that the procedure adopted by the respondents is wrong. Guidelines are specific that there shall be a periodical meeting of the Committee and all the vacancies of the southern Region should be taken into account and all the pending applications should be considered. This was not done.

6. At the time of earlier hearing, the records were called for and the same had been produced.

7. Counsel for the respondents submitted that the action taken is in accordance with the provisions as contained in Annexure R1 letter as extracted in counter also.

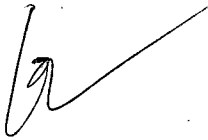
8. Arguments were heard and documents perused. It is the case of the applicant that the Committee is expected to consider the case and come to a decision, which has not taken place. Records were perused and the same reflect the following:-

(a) Labor officer report was called for.

(b) The Dy. Labour Welfare Commissioner has certified and recommended the case and EE(E) KCED, Kochi has also recommended for the post of Electrical Khalasi.

(c) Case referred to Chief Engineer(E) on 14-05-2003.

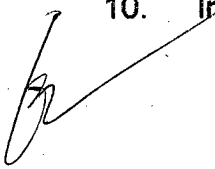
(d) Chief Engineer calls for Labour Officer Report, Details of Terminal Benefits and Pension details under communication dated 16-06-2003.



(e) The SE Coord. returned the case of the applicant as well as of other 24 more individuals, endorsing along with the same, that the office is having a waiting list for giving compassionate appointment for the posts of Group C and D and Work Charged Establishment; and that no vacancy will arise in the next one year for the above posts for considering issue of compassionate appointment for the applicant. Letter dated 01-02-2007 refers.

9. As per para 3(iv) of DG Works letter dated 10th August, 2005, if there exists a waiting list but there is no prospect of the applicant being offered any compassionate appointment in the next year but the case is deserving, then there should be a reference to the applicant informing him/her that the case has been rejected due to non availability of vacancy but the same will be reviewed at the end of the first year and if necessary at the end of the second year. The records do reflect that this is a case where the Dy. Labour Welfare Officer has recommended the case. The S.E. also endorsed the same. Under such circumstances, it is incumbent upon the respondents to give reconsideration at the end of each year for two more times. This has obviously not done. Again, the contention that there had been no delay on the part of the respondents cannot be acceptable. For, the case was seen by the Labour Welfare Officer anterior to 9th March, 2004. There is no inkling that the case was ever referred to the Selection Committee. This is certainly a procedural lapse, which has to be rectified. The litigation itself has arisen on account of the Respondents not having carefully followed the procedure. The observations of Hon'ble Supreme Court in the case of Lakshmi Ram Bhuyan, extracted above fully applies to this case as well.


10. In view of the above, the OA is disposed of with the direction to the



respondents to refer the case to the Selection Committee, which would dispassionately consider the case of the applicant and contrast the same with other cases for compassionate appointment and if found deserving consider offering of appointment to the applicant suiting her qualifications. If for any reason, the case is not recommended by the Selection Committee reason therefor should be communicated to the applicant along with the details of those cases where appointment has been recommended. Such a drill, if required should be repeated for the second time, in case on the first occasion the case is not recommended by the Selection Committee.

11. As the case is sufficiently delayed, the case should be considered on the next selection Committee Meeting. No costs.

(Dated, the 1<sup>st</sup> January, 2008)

  
(Dr. K B S RAJAN)  
JUDICIAL MEMBER

Cvr.