

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.437/04

Friday this the 8th day of October 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

K.P.Koshy,  
S/o.K.P.Philiphose,  
(Ex-BPM, Inchavila-Perinad),  
Residing at Kuzhinzazhikathu Puthen Veedu,  
Inchavila P.O., Perinad, Kollam District.

Applicant

(By Advocate Mr.Shabu Sreedharan)

Versus

1. Union of India represented by  
Secretary/Director ~~General~~ of posts,  
Ministry of Communication,  
New Delhi - 110 001.

2. The Chief Post-Master General,  
Kerala Region, Thiruvananthapuram.

3. The Senior Superintendent of Post Offices,  
Kollam Division, Kollam.

Respondents

(By Advocate Mr.N.M.James,ACGSC)

This application having been heard on 8th October 2004 the  
Tribunal on the same day delivered the following :


O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The services of K.P.Philiphose the father of the applicant as GDS BPM, Inchavila were terminated with effect from 18.8.2003 by Annexure A-2 order of the 3rd respondent because the District Medical Officer (Health) Kollam vide its letter dated 27.6.2003 conveyed the findings of the District Medical Board Kollam dated 26.6.2003 adjudging Shri.K.P.Philiphose, GDSBPM, Inchavila as completely and permanently incapacitated for further service in the Department. Since the applicant's father was thus discharged on medical grounds he submitted Annexure A-3 request to the 2nd respondent seeking employment assistance to his son (the applicant) on compassionate grounds on the ground that his family

has been driven to indigence as it was depending on his salary for the livelihood. In response to the representation the applicant's father was informed by Annexure A-4 communication of the 3rd respondent that it had been informed by the 2nd respondent that the near relative of invalidated GDS are not eligible for employment assistance on compassionate grounds. Aggrieved by that the applicant has filed this application seeking to set aside the impugned order and for a direction to respondents 2 and 3 to give appointment to the applicant in the post of BPM or in any other suitable post by extending to him the benefit of employment assistance on compassionate grounds. It is alleged in the application that the Full Bench of the Tribunal sitting in Ernakulam in O.A.220/98 has declared that the benefit of the claim of employment assistance on compassionate grounds is available to the depending near relative of an ED Agent discharged prematurely on medical ground and that the letter No.14-25/91-ED&Trg dated 29.5.1992 of the Asst. Director General (Trg.), Dak Bhavan is liable to be set aside and therefore the rejection of the claim of the applicant without considering the same on merit is unsustainable in law.

2. Opposing the prayer in the application the standing counsel initially filed a statement on behalf of the respondents which is followed by a reply statement. It is contended that the benefit of the claim of employment assistance on compassionate grounds is not applicable to the son or near relative of an ED Agent discharged on medical invalidation in terms of Annexure R-3 and that the judgement of the Full Bench of Tribunal in O.A.220/98 is under challenge before the Hon'ble High Court of Kerala in O.P.No.9074/02, that the operation of the order of the



Tribunal had been stayed by the Hon'ble High Court of Kerala in CMP No.16174/02 and therefore the ruling of the Full Bench cannot be followed.

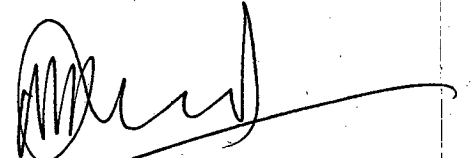
3. I have carefully gone through the pleadings and documents placed on record and have heard Shri.Shabu Sreedharan learned counsel of the applicant and Shri.N.M.James,ACGSC learned counsel for the respondents. It is well settled by now that pendency of appeal before a higher forum or even a stay of operation of a judgement is not an embargo for the Tribunal for following the Full Bench decision. The stay of operation of the order of the Tribunal operates between the parties to the former case and it cannot be taken that the principle enunciated in the Full Bench ruling cannot be followed. Annexure R-3 letter of the Director General of Posts has been set aside by the Full Bench in O.A.220/98 and it has been held that the benefit of the claim of employment assistance on compassionate grounds is available to the son or near relative of an ED Agent discharged on medical invalidation. I, therefore, find that the rejection of the claim of the applicant conveyed by Annexure A-4 order for employment assistance on compassionate grounds is legally unsustainable.

4. In the result, Annexure A-4 is set aside and the respondents are directed to consider the claim of the applicant for employment assistance on compassionate grounds on merits since a son or near relative of an ED Agent discharged on medical ground is entitled to claim the benefit of employment assistance on compassionate grounds. The case of the applicant shall be considered after placing the same before the Circle Relaxation Committee as is required and appropriate order shall be issued by

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the 2nd and 3rd respondents on the claim within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 8th day of October 2004)

A handwritten signature in black ink, appearing to be 'A.V. Haridasan', written over a horizontal line.

A.V. HARIDASAN  
VICE CHAIRMAN

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