

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.443/97

Tuesday this the 2nd day of September, 1997.

CORAM

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

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

1. S.G.Nair, Superintendent (Retired),  
Kizhakkekottayil, Puthiyavila PO,  
Kayamkulam, Alapuzha.690531.

2. G.Suresh S/o S.G.Nair,  
Kizhakkekottayil, Puthiyavila PO,  
Kayamkulam, Alapuzha 690531.

Applicants

(By Advocate Mr. R.Rajasekharan Pillai)

Vs.

1. Union of India represented by the  
Secretary, Ministry of Finance,  
New Delhi.

2. The Chairman, Board of Customs and  
Central Excise, Revenue Building, New Delhi.

3. The secretary, Board of Customs and  
Central Excise, Revenue Buildings, New Delhi.

4. The Principal Collector, Central Excise,  
West Zone, Bombay, New Central Excise  
Building, 115, M.K.Road, Opp.Church Gate  
Railway Station, Bombay.

5. The Deputy Director (Comms), Telecom Wing,  
6th floor, New Customs House Annexe,  
Balland Estate, Bombay .

..Respondents

(By Advocate Mr.TPM Ibrahim Khan, SCGSC (represented))

The application having been heard on 2.9.1997, the  
tribunal on the same day delivered the following:

O R D E R

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

The first applicant for reason of unhealth  
was compelled to be on medical leave for a long  
time and ultimately on 25.4.93 applied for  
permission to retire on invalid pension under Rule  
38 of the CCS (Pension) Rules. Though his  
application was presented on 25.4.93 it reached the  
Head Office only in the month of August 1993. The  
request of the first applicant for retirement was  
granted and he was retired on invalid pension with  
effect from 27.12.93. In the applicant's request

for invalid pension he had also made a request for grant of compassionate appointment to his son the second applicant. This request was turned down by the respondents on the ground that the applicant had crossed the age of 55 years and therefore was not entitled to the benefit of the scheme for compassionate appointment on invalid pension in accordance with Sub paragraph (b) of para 21 of the Government order dated 30.6.87 in regard to scheme for compassionate appointment.

2. Aggrieved by this, the applicants have jointly filed this application seeking to have A4 and A7 orders rejecting the applicants' claim for compassionate appointment of the second applicant<sup>quashed</sup> and for a direction to the respondents to appoint the second applicant on a Group 'C' or 'D' post on compassionate grounds.

3. The respondents resist the claim of the applicants on the ground that as the first applicant had crossed the age of 55 years when he was retired on invalid pension, in accordance with the scheme the benefit of employment assistance on compassionate grounds cannot be extended to the case of the applicants. The retirement of the applicant in the month of December, though he made a request in April 1993 has been explained by stating that the application could be processed only when it was received in the Head Office and that his retirement was given effect to after the expiry of the medical leave in accordance with Rule 20 of the CCS (Leave) Rules. The respondents, therefore, contend that the action on the part of the respondents in denying the request of the applicants for employment assistance on

compassionate grounds to the second applicant was only in accordance with the rules and instructions on the subject and requires no interference by the Tribunal.

4. ~~Giving~~<sup>Giving</sup> the facts and circumstances emerging from the pleadings our anxious consideration in the light of the points urged by the learned counsel on either side, we find no infirmity in the decision of the respondents in not extending the benefit of employment assistance on compassionate grounds to the second applicant for the reason that the first applicant had retired on invalid pension only after crossing the age of 55 years. The decision is strictly in accordance with the spirit of the scheme Annexure.R4(a) and therefore it is unexceptionable. The case of the applicants that the applicants could not be put on a disadvantageous condition on account of the delay in processing the case for granting permission for retirement on invalid pension also is not very appealing because even after the first applicant's making his request, some time naturally should have taken for getting the certification of the appropriate medical authority in the matter. The first applicant himself has made request for retirement on invalid pension just one month prior to the date on which he attained 55 years. He also had not indicated the date on which he wished to retire. Hence it cannot be said that there has been any unreasonable delay on the part of the

respondents granting the applicant the permission to retire.

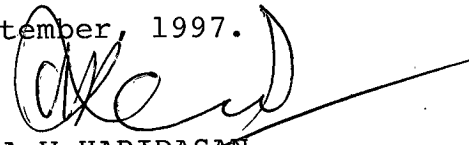
5. We do not find any merit in this application and therefore, we dismiss the same leaving the parties to bear their costs.

Dated the 2nd day of September, 1997.



S.K.GHOSAL

ADMINISTRATIVE MEMBER



A.V.HARIDASAN

VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A4 : Order No.I/13-1/PCU/BCX/94/6499 dated 16.12.1994 from the 4th respondent to the 1st applicant.
2. Annexure A7 : Communication dated 4.3.1997 of the Commissioner of Central Excise, Mumbai-2 to the 1st applicant.
3. Annexure R4(a): OM No.14014/6/86-Estt.(D) dated 30.6.1987 of the Government of India, Department of Personnel & Training.

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