

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A No. 450 of 2012This the 11th day of April 2013CORAM:

HON'BLE MRS.K.NOORJEHAN, ADMINISTRATIVE MEMBER

1 T.K.Vijayamma, W/o late K.G.Purushothaman
 R/o Kudakkuthamthara, Perumbalam P.O
 Cherthala, Alappuzha Distt. - 688570.

2 K.P.Shibu, S/o late K.G.Purushothaman
 R/o Kudakkuthamthara, Perumbalam P.O
 Cherthala, Alappuzha Distt. - 688570.

Applicants.

(By Advocate Mr.K.Shri Hari Rao)

Vs

1 Union of India represented by its Secretary,
 Ministry of Defence, Govt of India, New Delhi-1.

2 The Chief of Naval Staff (Integrated Headquarters),
 Ministry of Defence, (Navy) Govt of India, New Delhi-1.

3 Flag Officer Commanding-in-Chief, Southern Naval
 Command, Headquarters, Naval Base, Kochi-682004.

4 Officer-in-charge, Command Transport Workshop,
 Kochi, Naval Base, Kochi-682004.

Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

(The Application having been heard on 4.4.2013, the Tribunal
 delivered the following)

O R D E RHON'BLE Mrs.K.OORJEHAN ADMINISTRATIVE MEMBER

The applicants, the widow and son of late K.G.Purushothaman, are aggrieved by the non-consideration and rejection of their request for compassionate appointment to the 2nd applicant.

2 Brief facts of the case as stated by the applicant are that the

father of the 2nd applicant who was working as Motor Transport Fitter in the office of the 4th respondent expired on 31.10.2007 due to lung cancer and left behind his widow, the 2nd applicant and an unmarried daughter. It is stated that the deceased was on prolonged treatment in the hospital for more than 6 months and they incurred an expenditure of more than Rs.4 lakhs. The salary of the deceased was the only source of income in the family. The family has only 16.5 cents of land in the Perumbalam Village and a small house in it. Applicant is the eldest son of the deceased. He passed SSLC and successfully completed the 2 years Diploma in Automobile Engineering. The mother of the applicant submitted application within time for compassionate appointment for her elder son, the applicant. Since nothing is heard from the respondents, the 2nd applicant approached the office of the 4th respondent on 8.5.2012 and came to know that Annx.A1 letter dated 27th October 2010 was issued rejecting the request of the applicants. It is submitted that the widow of the deceased, the 1st applicant, who received the letter, is suffering from various diseases like high blood pressure and loss of memory. The respondents vide communication Annx.A1 informed that his case for compassionate appointment was considered by the Board of officers in three consecutive years, viz 2007-08, 2008-09 and 2009-10, and since the number of vacancies earmarked for compassionate appointment is very less, his case could not be considered for appointment therefore it is rejected as no appointment could be offered for the last 3 years. It is submitted that the family is heavily indebted due to the expensive treatment of the deceased and there is no earning member. Further that the family is getting an annual income of Rs.13000/- per annum from the property of 16.5 cents is far from truth as reported by the District Collector, Alappuzha. The land consists of a house in a water logged area with 6 coconut trees. The meagre amount of family pension is the only source of income for the family, therefore, rejection of the application for compassionate appointment is illegal and arbitrary. Therefore this OA.



3 Respondents have contested the OA. It is submitted that the quota fixed for compassionate appointment is 5% of direct recruitment vacancies arising in Group C and D posts. There were a few vacancies in Group-D cadre on promotion/retirement. All vacancies were taken into consideration to derive at 5% vacancies for compassionate appointment. It is also stated that the case of the applicant was included in the panel continuously for 3 years but he could not be approved for want of sufficient number of vacancies during that period. As per the present norms adopted by the respondent department if appointment on compassionate grounds could not be granted within 3 years of empanelment, the name of such candidates would be removed from the list to enable the persons whose names are subsequently included to be considered. The applicant was informed accordingly.

4 Rejoinder was filed reiterating the facts stated in the O.A. However, the applicant disputed the report of the District Collector Alappuzha showing the income of the family as Rs.13000/- from the 16.5 cents of water logged land. The position in comparative weightage assigned to him on the basis of the report of the District Collector was therefore not correct.

5 Heard the learned counsel for the parties and perused the record.

6 The Scheme evolved by the Government of India for consideration for appointment on compassionate ground to a family member of a Government servant dying in harness leaving behind the family in penury is to extend immediate relief to the family to face the sudden and unexpected economic hardship. There are other parameters like number of dependents, extent of liabilities, etc. In this case, the dependents are stated to be mother, a son, the applicant and an unmarried daughter. The Committee met from time to time and recommended the most deserving candidates for appointment during the period and the case of the applicant could not be recommended on the relative merit of the candidates. The respondents



have considered the applicant continuously for 3 years.

7 The whole objective of granting compassionate appointment is to enable the family to tide over the sudden crisis and it is not meant to give employment to one member of such a family. Govt of India, DOPT in its O.M No.14014/22/94- Estt (D) dated 28.11.1994 has circulated the Apex Court's judgment dated 04.05.1994 reported in JT 1994(3) SC 525, Umesh Kumar Nagpal Vs. State of Haryana & Ors, and Anil Malik Vs. State of Haryana & Ors. Relevant portion is extracted below:-

"The provision of employment in such lowest posts by making an exception to the Rule is justifiable and valuable since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object which is sought to be achieved, viz. relief against destitution. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. "

8 But I do find force in the contention of the applicant that the respondents did not give much weightage to the liability and indebtedness of the family for prolonged treatment of the deceased and the settlement of the marriage of the dependent daughter and the technical qualification of the applicant who is a Diploma holder in Automobile Engineering. Further, though the family has 16.5 cents of land in Village Perumbalam which is a water logged area, the projected income of Rs.13000/- from 6 coconut trees seems to be exaggerated. The only inference, that can be made, is that the financial condition, liabilities, size of the family and the marriage of the daughter did not receive the required attention from the respondents. Merely because the widow was paid terminal benefits and she is getting family pension there is no ground to deny the appointment on compassionate ground as payment of terminal benefits is no substitute for compassionate appointment.

9 In the case of Balbir Kaur & Anr. Vs. Steel Authority of India, 2000 SCC (L&S) 767, Hon'ble Apex Court had held that while considering

Ty

the case of appointment on compassionate ground, the retiral benefits received by the family shall not be taken into account as the sole criterion to refuse the appointment on compassionate appointment. In the instant case, undisputedly the widow has to take care of the family consisting of her son and unmarried daughter. The liability of marriage of the daughter and the expenses incurred on the treatment of the deceased cannot be overlooked while considering the case of the applicant.

10 In view of the peculiar facts and circumstances of this case, it is just and proper to direct the respondents to consider the applicant for appointment on compassionate ground. The applicant is a Diploma holder in Automobile Engineering. If no vacancies are available in Group-D cadre, he can be considered for a technical post where only direct recruitment is resorted to. The respondents can instruct him to take the prescribed test and qualify in the same with minimum prescribed marks as a primary condition for considering his case for recruitment under relaxation of recruitment rules. I direct 3rd respondent to consider the case of the applicant in the manner mentioned supra and intimate the applicant the decision taken within three months from the date of this order. No costs.

Date 11th April 2013


K.NOORJEHAN
ADMINISTRATIVE MEMBER

kkj