

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 464 of 2005

Thursday, the 27th day of July, 2006

C O R A M :

HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

R. Latha,
W/o. Late Ramaraj,
Floor A, IOB Building,
Mukkola P.O., Trivandrum

... Applicant.

(By Advocate Mr. M V S Nampoothiri)

v e r s u s

1. Union of India,
Represented by the
Secretary to the Government,
Department of Information & Broadcasting,
New Delhi.

2. The Director Genral of Doordarshan,
Doordarshan Bhavan,
Campico Marg, Mandi House,
New Delhi.

3. The Director, Prasar Bharathi,
(Broadcasting Corporation of India),
Doordarshan Kendra, Trivandrum.

... Respondents.

(By Advocate Mr. P.M. Saji for R1 and Mr. N.N. Sugunapalan, Sr., for R-2 and R-3).

This application having been heard on 27.07.06, the Tribunal on the same day delivered the following:

O R D E R
HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

The matter relates to compassionate appointment. Brief facts as contained in the OA are as under:-



- (a) The husband of the applicant was working as Master Technician at Doordarshan Kendra, Trivandrum, and he died on 28.3.1999. There are three minor daughters who are all studying. The applicant submitted an application for appointment under the Dying in Harness Scheme.
- (b) By letter dated 15th March, 2000, the Senior Administrative Officer, Doordarshan Kendra, Trivandrum, informed the applicant that the Director General, Doordarshan has decided in principle for her appointment in Group 'C' post of L.D. Clerk in Doordarshan. The applicant received another letter from the Senior Administrative, Doordarshan Kendra, Trivandrum, stating "with reference to the above, It is stated for kind information that the competent authority has decided in principle to appoint you in Group 'C' post of L.D. Clerk in Doordarshan on compassionate ground. Your name has been noted in the pending waiting list of compassionate cases. Offer of appointment will be issued to you in future when your case matures subject to the availability of vacancies, which may occur in future against 5% quota prescribed for the purpose." The applicant was under the bona fide belief that she would be appointed soon. But she received a letter dated 8th June, 2005 informing that her case for compassionate appointment may be treated as closed and deleted from the warning list and will not be considered again. The reason shown in this letter for this decision is that 3 years have elapsed since her husband died.

2. The respondents have contested the OA and their stand is as under:-



- (a) It is true that the competent authority had decided in principle to appoint the applicant in Group-C post of Lower Division Clerk in Doordarshan on compassionate grounds. Her name was noted in the pending waiting list of compassionate appointment cases. Since the suitable number of vacancies under the 5% quota were not available and as the applicant's case became more than three years old, it was decided as a matter of policy, that her case may be treated as closed and deleted from the waiting list and would not be considered again. The three year rule had to be made as a matter of policy and no arbitrariness or favoritism or discrimination has ever been shown by these respondents. However, if a policy decision results in one or two unfortunate cases being left out, the respondents cannot be held liable for the same as the respondents have acted in a fair and reasonable manner for the larger good.

3. The applicant had filed an extract of the copy of an order dated 03-09-2004 in OA 462/04 of the Karnataka Bench of the Tribunal, wherein the facts of the case according to her are identical to that of the applicant.

4. Reply for R-2 and R-3 have also been filed.

5. Arguments were heard and documents perused.

6. The respondents have twice (first in March, 2000 and next in April, 2004) confirmed that the department has decided to offer the applicant a Group C appointment on compassionate ground, subject only to the availability of vacancies under the 5% quota earmarked for such



compassionate appointment. It is only the order dated 05-05-2003 that had prescribed a limit of three years from the date of demise of the government servant before which compassionate appointment should be given. This stipulation, according to the Bangalore Bench order does not apply to cases where decision to offer compassionate appointment has already been taken and it is only on account of non availability of vacancy that offer is not given. In other words, consideration of the case should take place within three years of the demise of the government servant. This Bench is in respectful agreement of the Interpretation of the Bangalore Bench

7. The case of those in respect of whom, the competent authority has considered and decided to offer appointment subject to availability of vacancies under the quota for compassionate appointment stands in a better pedestal than those in whose case even consideration has not taken place. In the instant case the decision for appointment of the applicant in a group C post was taken as early as in March, 2000. Again, vide the reference cited in the order dated 19th April, 2004, the letter from the Director General Doordarshan, New Delhi is of 31st March, 2004. In all expectation, this letter should be the basis for the issue of letter dated 19th April, 2004 (Annexure A -VII) whereby the communication of the decision in principle to 'appoint the applicant in a Group C post of Lower Division Clerk in Doordarshan on compassionate ground" was made. This being posterior to 5th May 03 letter, it is evident that the decision to offer the appointment has been taken consciously despite the restriction contained in the afore said order



(assuming that the same is applicable even to such case). As such, the applicant has made out a strong case in her favour and the decision of Bangalore Bench fully supports her case as the facts therein are identical to that of the applicant.

8. In view of the above, this OA is disposed of with a direction to the respondents to consider offering the applicant, as per their own commitment, of a Group C post of LDC when the next vacancy arises in the 5% quota. Of course, if there be any one senior to the applicant in such a category (where decision in principle has already taken place), the applicant's case shall be considered in her turn.

9. As the offer of appointment would depend upon availability of vacancy in respect of which no time limit could be prescribed, no schedule for compliance is calendared save that offer should be made within three months from the date of arising of the vacancy in which the applicant can be appointed.

10. No costs.

(Dated, the 27th July, 2006)


K B S RAJAN
JUDICIAL MEMBER

cvt.