

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.464/2006

Friday the 21st, the day September, 2007

CORAM:

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

C. Sunderesh
Lakshmi Nilayam, Vadasserry PO,
Keralasserry. ... Applicant

By Advocate Mr.P.V.Mohanan

V/s.

- 1 Chief Postmaster General,
Kerala Circle,Trivandrum-695 033
- 2 Superintendent of Post Office,
Ottapalam Division,Ottapalam,
Palakkad District
- 3 Union of India represented by its
Secretary,Ministry of Communications,
New Delhi. ... Respondents

By Advocate Mr.Thomas Mathew Nellimoottil

This application having been heard on 13.9.2007 the Tribunal on 21.9.2007delivered the following:

(ORDER)

Hon'ble Mr.George Paracken, Judicial Member

- 1 This is the second round of litigation of the applicant to secure an appointment on compassionate ground. After his father, late Shri Shivprasad M, died, after an accident, on 8/6/2001 while working as Head Cash Over-seer at Ottapalam Head Post Office, his mother made a request to the respondents to appoint her on compassionate grounds. The Circle Relaxation Committee (CRC for short) which met on 27/11/2001

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considered her case but rejected the same stating the following reasons:-

"The purpose of appointment on compassionate grounds is intended to render immediate assistance to the family of a Government Servants who dies in harness or retire on invalidation on medical grounds leaving his family in indigent state. Such appointments can be provided only to fill up to 5% of vacancies that arise for direct recruitment. Consequently, it became essential to ensure that only one deserving cases are approved as per the purpose stipulated for the scheme of such compassionate appointment."

Thereafter, her son (Applicant) made a request to the President of India to consider him for compassionate appointment and it came up before the CRC in its meeting held on 7/11/2003 but the same was rejected again relying upon its earlier decision dated 27/11/2001 and with the observation that the family of the deceased was given terminal benefit of Rs.1,75,671/- and the applicant's mother was in receipt of Family Pension.

2 Thereafter, the Applicant filed OA No.754/2004 against the aforesaid denial of compassionate ground appointment to him and while considering the same, this Tribunal went through the departmental records which revealed that the Sub Divisional Inspector, who made enquiries in the matter found that the family of the deceased had liabilities amounting to Rs.2,56,435/- whereas the family received the terminal benefits of Rs.1,75,671/- only. It was also seen that the CRC did not take into consideration of the following report submitted by the Sub Divisional Inspector on 29/8/2001.

"After fulfilling all obligations, the family will not be left with adequate means to meet the basic requirements. Considering the blemish-less record of service of Shri M Siva Prasad, the long years of sincere service rendered by him and the general financial circumstances, I feel that the application of Sri C.Sundaresh, eldest son of Shri Sivaprasad, for compassionate appointment should be given due

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consideration with utmost sympathy.

Shri Sundaresh is the eldest son of Sri M.Sivaprasad. His date of birth is 22.5.83. He has passed SSLC and is studying for VHSC. With reference to his age and educational qualification, Shri Sundaresh is eligible for consideration for the post of Postman in Group "C" cadre. Providing him with immediate employment as Postman in relaxation of normal recruitment rules, will not only provide great relief to the family of the deceased but will also be a reward though late, for the sincere services of Shri M.Sivaprasad."

This Tribunal also found that lack of vacancy was not a reason for rejecting the case of the applicant at that time and directed the respondents vide order dated 4/1/2006 to re-examine his case afresh taking all aspects into consideration, including the aforesaid report of the Sub Divisional Inspector and to grant appropriate relief to him.

3 It is in purported compliance of the aforesaid direction dated 4/1/2006, the respondents have issued the impugned Annexure A-1 order dated 7/4/2006, again rejecting his request for appointment on compassionate grounds. The respondents have submitted that the CRC met on 22/3/2006 considered the various cases placed before them including that of the applicant on the basis of following criteria:

- "- Number of dependents
- Number of unmarried daughters
- Number of minor children
- Annual income from other sources.
- Whether family owns a house or not
- Details of landed property
- Details of liability of the family".

There were only two posts of Postman/Mail Guard available under the direct recruitment quota for the year 2005 for compassionate appointments but there were already four cases pending for appointments which have

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been sanctioned by the CRC in its earlier meetings held on 10/2/2005 and 28/9/2005. Since there were no further vacancies available, the CRC rejected the case of the applicant once again. The financial position of the family already assessed was considered still applicable in his case.

4 In the reply statement also the respondents have reiterated that the claim of the applicant was rejected again due to relative lack of indigence as established on the basis of the fixed parameters and lack of vacancies. They have also produced the Annexure R 1 minutes of the CRC meeting held on 22/3/2006 stating the aforesaid vacancy position and the pending cases for compassionate ground appointments

5 During the course of the argument, the counsel for the applicant Shri P.V.Mohanan pointed out that the applicant's case was rejected on the ground of non availability of vacancies for the year 2005 whereas the CRC ought to have considered his case with regard to the number of vacancies during the year 2001. This Tribunal has, therefore, directed the respondents to file an additional affidavit indicating the following details:-

- 1 Number of expected Postmen/Mailguard vacancies under UR quota for the year 2001.
- 2 5% of the above vacancies which would be available for compassionate appointment.
- 3 Compassionate appointment already approved in the C.R.C. Meetings during the period from 1.4.2001 to 31/3/2002.
- 4 Vacancies available for further compassionate appointment during the period from 01-04-01 to 31-03-2002.

Accordingly, they have submitted in the additional affidavit that there were 128 vacancies available for the year 2001 and 5 percentage of the same

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i.e. 6 vacancies have been earmarked for appointment on compassionate grounds. The C.R.C. had already recommended the appointments of six deserving cases in its earlier meeting held on 5/2/2001. Again the C.R.C met on 19/4/2001, 13/9/2001, 27/11/2001, 14/12/2001 and 10/2/2002 and recommended one more case. All those vacancies have been exhausted and there was no scope for the appointment of the applicant against the vacancies available during the year 2001.

6 I have gone through the pleadings very carefully and also heard the counsels for the parties. I find that the C.R.C in its meetings have considered the merits of the various applicants and recommended only the most deserving cases for appointment on compassionate ground. The comparative financial indigence of the families concerned and the number of vacancies available for compassionate ground appointments were the main criteria for their recommendations. No doubt, the respondents are well within their rights to consider the cases for compassionate appointment on the basis of comparative financial indigence as held by the Apex Court in the case of State Bank of India & Anr. V/s. Somvir Singh 2007(2)SCC(L&S)92 as under:-

"Authority also did not commit any error in taking into consideration the income of the family from other sources viz the agricultural land. Hardship of the dependent does not entitle one to compassionate appointment dehors the scheme or the statutory provision as the case may be. It is not a case where the dependents of the deceased employee are left "without any means of livelihood" and unable to make both ends meet. High Court ought not to have disturbed the finding and the conclusion arrived at by the appellant Bank that the respondent was not living hand to mouth"

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Similar was the findings of the Apex Court in the case of State Bank of India & Ors V/s. Jaspal Kaur 2007 AIR SCW 1044 wherein it was held as under:-

“.....Major criterion while appointing a person on compassionate grounds should be the financial condition of the family the deceased person left behind. Unless the financial condition is entirely penury, such appointments cannot be made. In the instant case, the financial condition of the respondent's family is not one of destitution...”

Again in the case of State of Jammu & Kashmir & Ors V/s. Sajad Ahmed Mir 2006 AIR SCW 3708 the Apex Court has held as under :

“providing employment on compassionate grounds is not mandatory if the family survives for long after the death of the breadwinner. Such employment cannot be claimed as a matter of right.”

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“once it is proved that in spite of the death of bread earner, the family (has) survived and a substantial period is over, there is no necessity to say 'good bye' to the normal rule of appointment and to show favour to one at the cost of several others, ignoring the mandate of Article 14.”

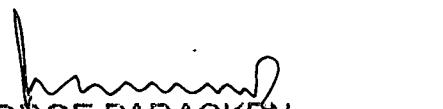
7 In the above facts and circumstances of the case, I do not find any fault in the decisions of the respondents. No doubt, after the death of the father of the Applicant while in service, his family was in indigent circumstances as there was a sudden drop in income. But then it should be appreciated that compassionate appointments are not appointments within the provisions of Articles 14 and 16 of the constitution. They are made purely under exceptional circumstances and restricted to 5% of

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vacancies falling under the direct recruitment quota in a year. As the availability of vacancies is limited and the claimants are more, the respondents have to assess the relative merit of each case which includes the financial indigence of the candidates and their families to ensure that such appointments are given only to the most deserving candidates. In my considered opinion, the C.R.C made its recommendations in an impartial manner based on well established criteria and the respondents have made the appointments according to their recommendations. Unfortunately, the applicant did not find his place in the list of cases of most deserving candidates which cannot be helped.

8 In this view of the matter, I have no option but to dismiss this OA and accordingly this OA is dismissed. There shall be no orders as to costs.

Dated 21st day of September, 2007


GEORGE PARACKEN
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