

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 48/2009

Dated 15 th day of June, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

V. Nazeer Babu S/o V.Mammed (late)
Elaylil House, Chalikulam
Chungathara PO,
Malappuram District.

Applicant

By Advocate Mr. U.K. Devidas

Vs

1 Flag Officer, Commanding -in-Chief
Head Quarters, Southern Naval Command
Kochi-682 004

2 Union of India represented by the
Chief of the Naval Staff for PDCP
Integrated Headquarters
Ministry of Defence (Navy)
New Delhi.-110 011

.Respondents.

By Advocate Mr. Sunil Jacob Jose, SCGSC.

The Application having been heard on 7.6.2010. the Tribunal delivered the following:

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, the eldest son of deceased employee of the Naval Store Depot, Naval Base, Kochi, seeks compassionate employment

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under Employees Dying Harness Scheme.

2 According to the applicant, his father expired on 19.4.2000 while working as Artist Painter under the respondents. At the time of death, the family of the deceased employee consisted of wife, two sons and a married daughter. As they have no landed property except $5 \frac{3}{4}$ cents of land, a small hut worth Rs. 15000/-, the applicant with all necessary documents submitted application for employment on compassionate ground (A2). The grievance of the applicant is that the respondents failed to consider his case and rejected the same after 7 years. Hence, he is challenging the rejection order at Annexure A-8 on the grounds that the respondents have not considered the factual situation of the case, the order was passed after 7 years delay, the recommendations of the Committee constituted under the Scheme is illegal, incorrect and unsustainable, the weightage assessed in the year 2004-05 and not considered in subsequent years, relative merit and comparative weightage adversely affected his claim, a balanced and objective assessment of the financial condition of the family has not been made, the new scheme which was introduced in 2002 has no retrospective effect, the liability of the wife and the fact that all the members of the family are unemployed have not been taken into consideration and he has not been granted an opportunity of hearing,

3 The respondents filed reply statement. They stated that the family was in receipt of family pension of Rs. 2050/-. They have also received Rs. 67,896/- towards DCRG and Rs 37,974/- towards CGEGIS. According to them, a verification report was sought from the District Collector, Malappuram in February, 2004, applicant was awarded a

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weightage point of 58 by the Board of Officers constituted for assessing the deserving cases. They further submitted that only 5% of the Group-C and D vacancies occurring during the financial year can be earmarked for compassionate appointment. The case of the applicant was considered in the years 2002-03, 2003-04 and 2004-05 wherein the applicant was at 48th, 49th and 16th positions in the merit list respectively. As the applicant was not coming within the merit to be considered for appointment he was informed of the position. They stated that the personal loans are not taken as a liability and liability of HBA which is taken from the department is only deducted from the assets for calculation of weightage points. They have also stated that the DOP&T OM dated 5th May, 2003 fixing the limit for considering the employment assistance as three years was followed.. Therefore, they denied all the contentions of the applicant.

4 The applicant filed rejoinder reiterating that his claim pertains to the year 2000 and that the meetings were held on 5.4.2005, 19.12.2005 and 3.7.2007 only and that those who were considered were not eligible for compassionate appointments. The applicant also requested for production of all the relevant documents for perusal of the Tribunal.

5 I have heard learned counsel for the parties and perused the documents produced before me.

6 The legal heirs of the deceased employee at the time of his death consisted of the divorced wife, the son of the divorced wife (applicant), one married daughter, the second wife and one son of the



second wife and the father of the deceased employee. According to the respondents, the applicant is entitled to apply for compassionate appointment. The mother of the applicant applied for compassionate appointment of the applicant on 7th November, 2001. According to the respondents, the DOPT prescribed the scheme for compassionate appointment and issued revised procedure for selection on 9.10.1998 which were modified from time to time. They have also prescribed a detailed procedure and a time frame. The weightage fixed was strictly followed for assessing comparative merit. The case of the applicant was considered accordingly by allotting points to various aspects like family pension, terminal benefits, etc. Moreover, the Committee took into account the position regarding availability of vacancy for appointment and recommended appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year that too within the ceiling of 5% meant for the purpose. This would ensure grant of compassionate appointment within a year. There were 4 vacancies in 2002-03, 9 vacancies in 2003-04 and 7 vacancies in 2004-05 while there were 122, 128 and 52 applicants respectively eligible for compassionate appointment and that the applicant was placed at 48, 49 and 16 position respectively of the merit lists. Therefore, the applicant could not get appointment.

7 One of the grounds raised by the applicant was that his application was considered late. From the records produced by the applicant itself, I find that the request for compassionate appointment was made on 7.11.2001, the mother of the applicant was directed to apply in the proper form in quadruplicate on 15.2.2002 which was



received by the respondents on 7.5.2002, got verified from the District Collector on 14.7.2003. The first meeting to consider compassionate appointment of the applicant was done on 5.4.2005 which considered the applications from the year 2000 onwards. The request was considered in two more meetings. Then only the applicant was informed about the result. Therefore, keeping in mind the limit of 5% vacancy available for compassionate appointment, I do not find any deliberate delay on the part of the respondents to convene the meeting.

8 The counsel for the applicant strenuously argued for consideration of the claim of the applicant under compassionate grounds since the family is heavily indebted and there is no earning member. There is no doubt that the applicant deserves sympathy. But when, it is a matter of choosing the most deserving candidate because of his penurious condition, the respondents are bound to devise a scheme by which those families who are in extremely indigent circumstances, can be extended financial relief, by way of appointment to a Group-D or Group-C post under relaxation of Recruitment Rules. The respondents also have to face the constraint of having negligible vacancies, since only 5% of the Direct recruitment quota alone can be earmarked for filling up under Relaxation of Recruitment Rules. Therefore, when there is, say 100 vacancies in a recruitment year, generally 50% will fall within promotion quota. Out of the 50%, only 1/3 vacancies cleared by the Screening Committee at the HQ level, alone can be filled up under Direct Recruitment quota. This means that only 17 vacancies under DR quota can be filled up, which leaves only one post for recruitment under compassionate recruitment scheme. This accounts for non-conduct of the meeting every year. This position continued till 2006, when DOPT



permitted 5% of the total vacancies under Direct Recruitment quota instead of 1/3 of the same. Under the broad guidelines issued by DOPT the respondents at HQrs level, have formulated a scheme of awarding points for various parameters fixed, to draw up a list and to choose those candidates whose families are comparatively in more penurious condition and require immediate financial assistance by way of a job. This affords a more uniform, fair and transparent method of selection and enables the respondents to give a satisfying reply to questions posed under RTI Act.

9 In this view of the matter, I do not find the selection arbitrary, illegal or with an ulterior motive as alleged by the applicant. I am of the view that the applicant lost out his case for compassionate appointment because there were more deserving families and because of availability of only 5% of direct recruitment vacancies for appointment under Relaxation of Recruitment Rules. It is settled law that the Courts/Tribunal can only direct consideration of the claim for such an appointment. In the case on hand, the applicant was considered for three years but could not get appointment on comparative merit. Hence the O.A. is dismissed. No costs.

Dated 15th June, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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