

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 486 of 2000

Tuesday, this the 1st day of August, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. Udayasankar P,
S/o late M.P. Padmanabhan Nair,
Thuruthi House, Edathala PO,
Ernakulam. ..Applicant

By Advocate Mr. O.V. Radhakrishnan

Versus

1. Deputy Commissioner of Income Tax (H),
Office of the Chief Commissioner of Income Tax,
Cochin.
2. Chief Commissioner of Income Tax,
Cochin.
3. Union of India, represented by its
Secretary, Income Tax Department,
New Delhi. ..Respondents

By Advocate Mr. A. Sathianadhan, ACGSC

The application having been heard on 1st of August, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A4 and A6, to declare that he is entitled to get appointment on compassionate ground in the office of the 2nd respondent in terms of the Scheme for compassionate appointment, and to direct the 2nd respondent to give a suitable post to him on compassionate ground.

2. The applicant's father while working under the respondents died on 7-8-1998. His father has left behind apart from him, the widow and another son. The family was solely depending on the salary of the deceased. At the time of the death of his father, he was doing Articleship of Chartered Accountancy Course after taking B.Com Degree. The

other son of the deceased is a student doing LL.B Course at Mumbai. For construction of the extended portion of the house his father had raised a personal loan to the tune of Rs.2 lakhs from the relatives and the interest thereon is accrued to the tune of Rs.70,000. The work could not be completed before his death. The sudden demise of his father has placed the family in an impecunious circumstance. He requested for compassionate appointment. His request has been turned down as per A4 and A6, impugned orders.

3. Respondents resist the OA contending that the applicant's case was considered under the Scheme for compassionate appointment brought out by the Government of India, Department of Personnel and Training vide OM No. 14014/6/94.Estt(D) dated 9-10-1998, which is produced as R1. The family of the deceased is getting pension and has also got DCRG, GPF, LIP, CGEGIS, Encashment of EL, all these together including a Bank balance of Rs.1932/- comes to a total of Rs.8,91,606/-. The family of the deceased possesses 65 cents of agricultural land and 19 cents of land with a house getting annual income of Rs.1500/-.

4. It is the admitted case of the respondents that the case of the applicant was considered in the light of R1. On a perusal of R1 produced along with the reply statement before this Tribunal it was seen that it was not complete and in that circumstance, I am relying on the copy available with the learned counsel for respondents. In R1 (not in the true copy produced along with the reply statement, but in the copy available with the learned counsel for respondents) it is stated that an application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of Personnel and

Training (Establishment Division) on the subject by a committee of officers consisting of three officers - one Chairman and two Members - of the rank of Deputy Secretary/Director in the Ministry/Department and officers of equivalent rank in the case of attached and subordinate offices, that the Welfare Officer may also be made one of the Members/Chairman of the committee depending upon his rank, and that the committee may meet during the second week of every month to consider cases received during the previous month. It further says that the applicant may also be granted a personal hearing by the committee, if necessary, for better appreciation of the facts of the case. It is also stated therein that the recommendation of the committee should be placed before the competent authority for a decision and if the competent authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision. It also says that while considering a request for appointment on compassionate ground, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under various welfare schemes) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and essential needs of the family, etc.

5. From A4 and A6, impugned orders, it appears that these orders are passed by the Chief Commissioner of Income Tax. The learned counsel appearing for the respondents also submitted that these two impugned orders are issued by the Chief Commissioner of Income Tax. So, it is clear that these two impugned orders are issued by one officer alone. This is not what is prescribed as per R1. Though respondents say that the case of the applicant was considered in the light of R1,

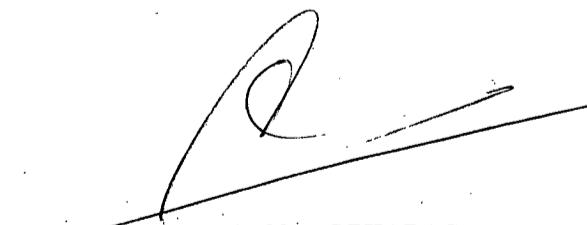
from a perusal of the impugned orders and R1 it is evident that these orders are not passed in conformity with the procedure laid down in R1. The department is not expected to file the reply statement in a very casual way. They should realise that a reply statement should not be filed without seriousness. It cannot be a case of saying just for the sake of saying that the case was considered in the light of a particular Scheme, whereas it is not so.

6. Since it is the case of the respondents that R1 squarely holds the field and the case of the applicant was considered in the light of R1, and as the impugned orders are not passed in terms of R1, on this ground alone these impugned orders are liable to be set aside.

7. Accordingly, A4 and A6 impugned orders are quashed. Respondents are directed to consider the case of the applicant strictly in accordance with the provisions contained in R1 without leaving any portion thereof and pass appropriate orders within a period of two months from the date of receipt of a copy of this Order.

8. The Original Application is disposed of as above. No costs.

Tuesday, this the 1st day of August, 2000.



A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in this Order:

1. A4 True copy of the Order No. 19/Estt/29/CC/98-99 dated 23-2-2000 of the 1st respondent.
2. A6 True copy of the Order No. 19/Estt/29/CC/98-99 dated 5-4-2000 of the 1st respondent.
3. RI Copy of the Scheme for compassionate appointment (Office Memorandum No.14014/6/94-Estt(D) dated 9-10-1998) issued by Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, New Delhi.