

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.51/94

Friday, this the 30th day of September, 1994.

CORAM

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER.

E. Pramila,
Erumbala House,
P.O. Kalliaseri,
Kannur District.
(By Advocate Mr EV Nayanar)
Vs.

... Applicant

1. The Chairman,
Telecom Commission,
Telecommunication Dept.,
New Delhi.
2. The General Manager,
Telecom District,
Indian Telecommunications Dept.,
Kannur-2.
3. The Assistant Engineer(Adm)
Office of the General Manager,
Telecom District,
Kannur-2.

... Respondents.

(By Advocate Mr C.Kochunni Nair, Sr.CGSC)

O R D E R

P SURYAPRAKASAM, JUDICIAL MEMBER

Applicant is an unmarried sister of E. Reghunathan who was working as TDA under the Assistant Engineer (HRD) in the Office of Telecom District Manager, Kannur and he died while in service. At the time of his death, he was only 30 years' of age, and the applicant as well as his father and mother of the deceased were dependents of the said deceased. Since the applicant's father is 77 years' old, and the mother is about 65 years', the applicant claimed under application dated 5.3.91 that she may be appointed to any one of the Cor D posts on compassionate ground under the rules. The authorities considered her application, but rejected the same, and as against that, the applicant preferred O.A. 108/93. After hearing the

arguments of the parties, the said order was quashed and the respondents were directed to consider the case of applicant for suitable employment under them, and pass appropriate orders within four months from that day bearing in mind the directives in Smt. Sushama Gosain's case.

2 Respondents have again considered the matter and a High Power Committee has gone into the same and passed an order of rejection which is being attacked now in the present O.A. The main ground on which her application for appointment on compassionate ground was dismissed is on the following lines:

"The members of the family of the deceased official are his Father, aged 74 years (Grocery Merchant) Mother aged 64 years and 2 sisters - E Premila, 23 years (Applicant), and E Valsala, 29 years, married and living separately, and 2 brothers aged 42 and 36 years. Both the brothers are reported to be employed and staying separate. No family pension has been sanctioned since the official died Bachelor. Other benefits have been paid to the nominees amounting to Rs 92, 319/-.. The committee considered all aspects and felt that there are no indigent circumstances in the family warranting immediate relief and hence rejected the request of E Premila for employment on compassionate grounds in relaxation of normal recruitment rules in the department."

This has been assailed by the applicant on various grounds, and it is specifically stated that she is an indigent person and the High Power Committee has taken into consideration matters which are not relevant for the purpose of deciding the case, and decided the case against her. The High Power Committee Report has been marked as Exbt. R3.

3 The main reason that has been given by the High Power Committee for the purpose of rejection of the applicant's application is that her two brothers were working at different places, one at Ahmedabad who will be visiting his parents once in 5 or 6 years, and the other at Kannur and they were living

separately with their family and children, and the income of her brother at Kannur is 44,000/- and the other's income could not be ascertained and further, the other two sisters of the deceased were already married. The father of the deceased is a Grocery Merchant with a livelihood of his own, and the mother has landed property with an annual income of Rs 10,000/-. This has been repelled in the arguments advanced by the applicant stating that it is fact that two brothers are there and that one brother is at Ahamedabad who was unemployed for sometime and who is coming to Kerala and visits parent's house only once in 5/6 years, and his income could not be ascertained by the very Inquiring Officer of the Department, and they are not contributing anything to the family at all. With regard to the sisters are concerned, they are all married and they are not contributing and there is no obligation on their part to contribute also. The petty Grocery Shop said to have been run by the father which was ceased to exist as per Exbt.A9 dated 3.7.93 wherein the Executive Officer, Kalliasery Panchayat specifically stated that the Grocery shop has been closed and the licence was also not renewed for the year 1993-94. The High Power Committee which formed its opinion and stated the reasons has been marked as Exbt. R3 dated 12.11.93, and therefore, the High Power Committee probably by an oversight would have missed this fact which is in favour of the applicant. The another factor is that normally the mother's family income from the landed property comes to about 10,000/- only. However, the applicant specifically stated in the application at page 4

as follows:

" The applicant's father has no properties. The thavazhy of the mother of the applicant holds less than an acre of land and in the thavazhy there are 8 members. Therefore, actually the income of the mother and dependent sister of the official is only 2/8 of the said Rs 10,000/-. It would accordingly be found that the old parents and the applicant were entirely depending on the deceased employee for maintenance and support."

This has not been denied in the reply statement filed by the respondents. If that is so, the annual income derived by the mother is very little and it is not sufficient to support the family at all. Further the High Power Committee has considered the fact that after the death of the applicant's brother, about 92, 301/- was paid to the nominees of the deceased, probably ^{ever} the committee has been carried by the same figure, but under the Hindu Law this amount ought to have been shared or could have been shared by the family members as such and the amount left over to the applicant as well as to the parents could be very little. Therefore, it cannot be said they are not indigent as such. One of the other factor is that the applicant has specifically stated that she discontinued her studies and could not complete M.A. Degree on account of the death of her brother on whom she was depending for all. Hence, she was unable to continue her studies with out support. This has also been not denied in the reply statement. The very fact that applicant was not in a position to continue her studies further, after joining the course will clearly show that she is indigent. Father and mother are about 77 and 65 years old. Applicant's counsel argued that the normal life span of male and female in Kerala is about 69 and 70 respectively, and as such it is too much to expect the father to continue to indulge in business and run

the Grocery shop as such. The age of the parents of the applicant clearly denotes that they are not in a position to run the Grocery shop as such. Further, under the Black's Law Dictionary (Fifth Edition) page -695 ' indigent ' is described as follows:

" In a general sense, one who is needy and poor, or one who has not sufficient property to furnish him a living nor anyone able to support him to whom he is entitled to look for a support. Term commonly used to refer to one's financial ability, and ordinarily indicates one who is destitute of means of comfortable subsistence so as to be in want. Powers V State, 194, Kan. 820, 420 P.2nd 328, 332."

4 Applicant 's counsel relied on AIR 1989 SC 1976 in Smt. Sushama Gosain and others Vs. Union of India and others and stated that the purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner of the family and stated that necessarily the applicant is not being provided with by any employment by the respondents. The allegation made by the applicant that she is a dependent of the deceased has not been denied any where in the reply statement nor during the course of arguments. Further, there is no proof to the effect that any contribution has been made by the two brothers and on the other hand, the allegation of the applicant is that they are living separately and their income is not sufficient to meet the expenses of their own family.

5 In view of what has been stated above, I hold that applicant is an indigent person and she has been driven from pillar to post for the last two years from the date prior mentioned to get appointment on compassionate ground. In the circumstance, Annexure A8 is quashed and direct the respondents to take immediate steps for employing the applicant in a suitable post commensurate with her educational qualifications in

Group C or D post within a period of one month from the date of receipt of this order.

6 Application is allowed as aforesaid. No costs.

Dated the 30th day of September, 1994.


P. SURYAPRAKASAM
JUDICIAL MEMBER


P 299