

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T. A. No.

518

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DATE OF DECISION 4.10.91

Geetha Gopinath Applicant (s)

Mr. G.P. Mohanachandran Advocate for the Applicant (s)

Versus

Chief Post Master General,
Kerala Circle, Trivandrum and others Respondent (s)

Mr. V. V. Sidharthan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The ^{applicant by} approached this Tribunal challenging Annexure A-5 rejecting the request of her compassionate appointment.

2. The applicant's father, a LSG Sorting Assistant, who was continuously suffering from serious illness from 1985, applied for long leave for treatment. Ultimately he succumbed to the disease. Before death he filed an application for voluntary retirement on the ground of illness. He was granted retirement from service ^{w.e.f.} on 31.1.1989. He died on 11.1.1990. Because of the pitiable condition of the family, the applicant approached the respondents for getting compassionate appointment based on the

retirement of the applicant's father on medical grounds.

Her request was rejected by the impugned order dated

8.12.1991, which reads as follows:

"With reference to your letter cited above, I am directed to inform you that you are not eligible for compassionate appointment as the late official has voluntarily retired from service."

3. The respondents filed a reply statement contending that the applicant is not entitled to compassionate appointment because the applicant's father ^{has} applied for voluntary retirement under the provisions of FR 56. This application is produced as Annexure R-1. They have also produced Annexure R-1(a) letter written to the District Medical Officer by the Sr. Supdt. of RMS, Trivandrum dated 17.10.88. According to the respondents since the applicant's case will not come within the purview of the relevant orders granting compassionate appointment to the son/daughter/near relative of deceased Govt. servant., Rule 38 of the CCS (Pension) Rules 1972 ^{has} and ^{the} application is liable to be dismissed.

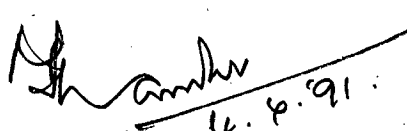
4. We have heard learned counsel appearing on both sides. The learned counsel for the applicant strenuously contended that the applicant's father died on account of continuous illness from 1987 and he was suffering from Cancer. It is submitted that the applicant was continuously in treatment and this fact was adverted to ^{by} the Department while referring the case to the medical authorities. They have not produced the certificate issued by the District Medical Officer, Trivandrum after examining the

applicant and the consequent orders passed by the Department in this behalf. However, this is a case in which the applicant was admittedly unable to work in the Department and his death resulted due to the serious illness which he was suffering for a long period. From Annexure R-1 letter of the Sr. Supdt., it is clear that the applicant was not willing to accept the advice of the Doctor to seek voluntary retirement in October, 1988. Under these circumstances since the fact of 'ill health' of the father of the applicant was specifically stated in the application, we are of the view that ~~his~~^{his} retirement cannot be treated as a simple voluntary retirement based on Annexure R-2 under ER. 56.

5. The respondents have no case that the applicant is ineligible for the appointment based on the qualification required for any post on compassionate ground. They have also not examined the present financial position of the family of the applicant for denying appointment. The only objection raised by the respondents is that the father of the applicant was allowed to retire voluntarily and hence the applicant is not eligible for compassionate appointment. ~~xxxxxx~~ On the facts, this ground cannot be sustained.

6. ^{Having regard to his facts in}
~~in the circumstances,~~ we are of the view that for
the purpose of considering the claim of the applicant for
compassionate appointment, the applicant's father should be
deemed to have retired on invalidation pension on medical
grounds under Rule 38 of the C.C.S. Pension Rules, 1972.
Under these circumstances, we ^{hold} ~~are of the view~~ that the
impugned order is unsustainable and we quash the same and
direct the first respondent to reconsider the claim of the
applicant for compassionate appointment in the light of
the relevant orders and dispose of the same within a
period of three months from the date of receipt of this
order.

7. The application is disposed of as above. There
will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER


(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

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