

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 523 of 2002

Thursday, this the 12th day of February, 2004

C O R A M :

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

1. Selinamma John,
W/o late MK John,
Residing at Pullukattu Manikanamparambil,
Nadakkavu PO, Udayamperoor,
Ernakulam District.
2. Sejo John,
S/o late MK John,
Residing at Pullukattu Manikanamparambil,
Nadakkavu PO, Udayamperoor,
Ernakulam District.Applicants

[By Advocate M/s Siby Mathew & M.A. Shihabuddin]

Versus

1. Flag Officer Commanding in Chief,
Headquarters, Southern Naval Command,
Kochi - 682 004.
2. Board of Officers for consideration for
Compassionate Appointment, represented by
its Chairman, Office of the Flag Officer
Commanding in Chief, Headquarters,
Southern Naval Command, Kochi - 682 004
3. Union of India, represented by its
Secretary, Ministry of Defence,
New Delhi.Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 12-2-2004, the
Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

Late M.K.John died in harness on 16.1.1998 while working as Lower Division Clerk (Civilian) in the INS Garuda leaving behind the first applicant his widow, the second applicant his son and two daughters. The elder among the girls got married on 20.5.2001. The second applicant was unemployed and the youngest daughter studying in school. A claim was made for employment

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assistance on compassionate grounds which was considered and rejected by Annexure A-3 order dated 5.2.2002 on the ground that the family had received DCRG of Rs.73,968, CGEI of Rs.40,384, GPF Balance of Rs.77,270, Leave encashment of Rs.55,261 and was receiving family pension of Rs.2,335/- per mensem and that it possessed 25.21 ares of land and single storied house, the total of which valuing Rs.6,02,500 and that with these details when the Committee considered the case for employment assistance on compassionate grounds it had placed the applicant at Serial No.72 as against two vacancies and therefore the claim could not be acceded to. Aggrieved by that the applicants have filed this application initially seeking to set aside Annexure A-3. It is alleged in the application that the receipt of terminal benefits and family pension cannot be held a bar for getting employment assistance on compassionate grounds.

2. The respondents filed a reply statement seeking to justify the impugned orders on the ground that employment assistance on compassionate grounds can be granted only against the vacancy of 5% earmarked in that regard in Group C and D and the case having been placed at Serial No.72 among the 100 against 3 vacancies the decision cannot be faulted. They also contended that in view of the clarification issued by the Ministry of Defence in consultation with the Ministry of DOP & T fixing the time limit for grant of employment assistance on compassionate grounds to one year and in view of the communication dated 8.3.2001 on the same subject which shows that the Government of India, Ministry of Public Grievances and Pensions has turned down the proposal made by the Ministry of Defence for extending the period for three years the matter cannot be further considered as the period



is over. When Annexure A-6 and Annexure A-7 were produced, the applicants have amended the O.A. seeking to set aside these two orders also on the ground that the fixation of period of one year is arbitrary and irrational. The respondents filed additional reply statement seeking to justify the orders.

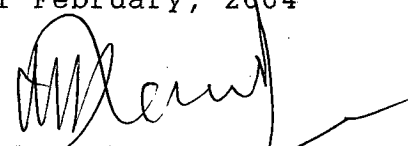
3. We have gone through the entire materials available on record and have heard Shri.Shafik M.A., learned counsel who appeared on behalf of M/s.Siby Mathew and Shihabuddin and Shri.C.Rajendran, SCGSC appeared for the respondents. Shri.Shafik argued that the fact that family has got the terminal benefits and a residential house with a small bit of land should not have been considered as a situation of affluence to deny the benefit of employment assistance on compassionate grounds. He also argued that the fixation of the period of one year for grant of the benefit is really short and unreasonable. The learned counsel for the respondents, on the other hand, argued that the reason for not granting compassionate appointment in this case was not merely on the ground that the family is in receipt of terminal benefits and a bit of property but on a comparative study of hundred cases for employment assistance as against the meagre number of vacancies available (i.e. three) that the request in this case could not be acceded to as the case was placed at Serial Number 72 in the order of merit. Regarding the fixation of period of one year for grant of employment assistance on compassionate grounds the learned counsel argued that this is a policy decision taken by the Government taking into account the various relevant facts and circumstances and therefore the Tribunal may not interfere.

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4. On an anxious consideration and analysis of the fact situation I find that the decision of the competent authority not to award employment assistance on compassionate grounds to the 2nd applicant cannot be held arbitrary or irrational calling for judicial intervention. The case of the applicants has received consideration by a Committee in the light of the relevant factors like the size of the family, assets and liabilities, the number of dependant members, their ages etc. The case has been considered along with other cases and on the basis of set formula marks have been awarded and the applicant case could be placed only at Serial No.72. There is no allegation that the Committee is partial or biased. Therefore on the basis of discompassionate and impartial assessment of the financial situation of the applicant's family vis-a-vis the families which were also waiting for employment assistance on compassionate grounds, the applicant's name having placed only at Serial No.72, the decision not to grant employment assistance to the applicants out of three vacancies available cannot at all be considered arbitrary or irrational. The fixation of period of one year has been made by the Government taking into account the spirit of the scheme to render immediate assistance and other relevant aspects. I am of the view that on a policy decision of this nature judicial intervention is not justified.

5. In the light of what is stated above, I do not find any merit in the application and therefore I dismiss the application leaving the parties to bear the costs.

Thursday, this the 12th day of February, 2004


A.V. HARIDASAN
VICE CHAIRMAN