

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.532/2002

Wednesday this the 15th day of January, 2003.

C O R A M

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

Smt.K.P.Rose Mary  
W/o Late V.K.John  
Residing at Veliyil House  
Kerala Road, Thevara P.O.  
Kochi - 682 013.

Applicant

[By advocate Mr.Vishnu)

Versus

1. Union of India  
represented by its Secretary  
Ministry of Defence  
New Delhi.
2. The Chief of the Naval Staff (for DCP)  
Naval Headquarters  
New Delhi.
3. The Flag Officer Commanding-in-Chief  
Headquarters, Southern Naval Command  
Kochi.
4. The Commodore Superintendent  
Naval Ship Repair Yard  
Southern Naval Command  
Kochi.
5. The Secretary  
Ministry of Personnel,  
Public Grievances and Pension,  
Department of Personnel & Training  
New Delhi.

Respondents

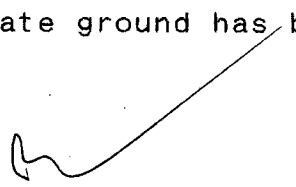
(By advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 15th January, 2003,  
the Tribunal on the same day delivered the following:

O R D E R


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

Applicant, a young widow of 33 years, burdened with the responsibility of bringing up her two young children as also taking care of her aged parents-in-law and a sister-in-law of unsound mind, has filed this application, aggrieved by A-1 order dated 18.2.2002 by which her claim for employment assistance on compassionate ground has been turned down.



2. The facts which are absolutely necessary for disposal of this application are stated as follows:

Applicant's husband, V.K. John while working as a Turner HS-II in the Naval Ship Repair Yard under the 3rd respondent and was getting a salary of about Rs.7000/- per month suffered spinal cancer and after prolonged treatment died on 7.7.2000 leaving behind the applicant, her two minor children, parents of the deceased and a sister-in-law of unsound mind, who were solely dependent on him. As the deceased had borrowed Rs.2,15,000 from the department as housing loan, the entire terminal benefits such as gratuity, group insurance amount, the amount due by way of encashment of leave etc. were adjusted towards the amount, with the result the applicant did not get any amount on hand. In addition to the liabilities due to the department, the loan taken by the applicant's husband from HDFC, Naval Cooperative Society and personal loan also still remain to be repaid. On the death of the applicant's husband, she was granted a family pension of Rs.2250/-. Shortly after the death of her husband, the applicant submitted A-3 request for employment assistance on compassionate ground. When she was asked to give the details in an affidavit, she submitted A-4 affidavit showing the liabilities of the family. On consideration of the applicant's claim, she was served with A-1 order dated 18.2.2002 telling her that as a committee on consideration of the case of the applicant along with other pending cases, in the light of the guidelines contained in the Ministry of Defence letter dated 9th March 2001 having placed the applicant at Sl.No.21 as against three vacancies available for being offered on compassionate ground, her request could not be acceded to. Aggrieved by this and




requesting that her case be reconsidered, the applicant submitted A-5 representation to the second respondent on 9.4.2002. Finding no response, the applicant has filed this application seeking the following reliefs:

- [i] To direct the 3rd and 2nd respondents to reconsider A-1 order taking into account a balanced and objective assessment of the financial conditions of the family.
- [ii] To direct the 2nd and 3rd respondents to reconsider the applications in A-3 and A-5 based on DOPT instructions and Supreme Court rulings regarding the Scheme of Compassionate Appointment.
- [iii] Call for the records and quash A1.
- [iv] Declare that A-8 and R3 are illegal and arbitrary and quash the same.
- [v] Declare that A8 and R3 as unreasonable and opposed to the spirit of the Scheme in A-2 in as much as it does not permit carry forward of vacancies earmarked for compassionate appointment from year to year.

A-8 instructions issued by the DOPT fixing a time limit of one year for appointment on compassionate ground also have been challenged by the applicant.

3. Respondents in their reply statement seek to justify the impugned order and the action on the part of the respondents in not finding the applicant's family as a destitute and in indigent situation on the ground that the applicant had not disclosed that the parents and sister of the applicant's husband were dependent on him, that after giving the relevant weightage for each and every point in terms of Annexure R-3 instructions issued by the Ministry of Defence, the applicant's case having come only at Sl.No.21, she could not be granted appointment on compassionate ground as only three vacancies arose in that year as against a large number of cases. It is further contended that the




applicant's family is in possession of a house and 6 cents of land and that her brother, an unmarried person earning Rs.18000 Per annum can take care of the applicant and her children. Respondents, therefore, contend that the application is devoid of merit.

4. Applicant has filed rejoinder in which the allegation that A-5 was not received by the respondents has been refuted and A-9 postal receipt was produced to show that A-5 representation was received by the respondents by post. It is also contended that the case of the applicant has not been properly considered as the vacancies which arose in that particular year has not been separately taken into account while dealing with the case of the applicant.

5. I have carefully gone through the pleadings and the materials brought on record and have also heard the learned counsel of the applicant and of the respondents.


6. On a careful scrutiny of the materials available on record, I am convinced that the case of the applicant has not received a proper consideration in the light of relevant facts and against the relevant vacancies. The death of the applicant's husband took place in the year 2000. Cases of compassionate appointment are to be considered and disposed of at the earliest. The case of the applicant for compassionate appointment against one of the vacancies of Group 'C' or Group 'D' should have been considered against the vacancy which arose in that year. What is seen is that all the compassionate cases numbering 100 were considered against the vacancies of the year 2001 and 2002. This



shows that the consideration was not in accordance with the spirit of the Scheme nor was in accordance with R-3 Guidelines or any other instructions. Although on the death of the applicant's husband, a sum of Rs.1,49,140/- was found due to the family as terminal benefits, not a pie was given to the applicant, as a sum of Rs.2,56,388/- was outstanding from the late husband of the applicant on account of house building advance. Although the applicant is in receipt of family pension of Rs.2250/- and allowances thereon, the fact that a sum of Rs.1000/- per month ~~each~~ is to be remitted by the applicant to the department as instalment of the outstanding balance of the house building advance and that the applicant has to repay other liabilities as mentioned in A-4 has not been considered at all. Although the applicant has not in A-3 representation mentioned that the parents of the deceased V.K.John and his invalid sister had been ~~dependant~~ <sup>dependant</sup> on the family, this fact had been brought to the notice of the respondents by the report of the District Collector, Ernakulam (Annexure R-6). However, the committee omitted to take into consideration the fact that the parents and the invalid sister of the applicant's late husband were depending on the family. It is mainly because of these omissions that the case of the applicant did not receive a proper consideration. Here is a case where a very young widow burdened with the responsibility of bringing up her two small children as also the liability of taking care of her old and sickly parents-in-law and a sister-in-law of unsound mind is left with only a meagre family pension, a lion's share of which would go for repayment of the loan taken by her late husband. There is no asset in the hands of the family which can be liquified immediately either to wipe off the liabilities or to provide fund for bringing up her

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children, for, the land and the house owned by the family are under mortgage with the Government. I am convinced that had the case of the applicant been considered in the right perspective, the decision would not have been the same which is contained in A-1. The case of the applicant for employment assistance on compassionate ground should have been considered against the vacancy which arose in the year 2000 because compassionate appointment is to be made to tide over urgent and immediate economic distress. The fact that the respondents did not take a decision in the case of the applicant within one year should not be held out as a reason for denying employment assistance for the reason that the period of limitation of one year is over. The committee has also gone wrong in considering all the pending cases numbering to one hundred against the ~~37~~<sup>3</sup> vacancies of the year 2000-2001. The consideration would have been meaningful if cases of each year were considered separate against vacancies arising in that particular year. The applicant's case as a matter of fact should have been considered against the vacancies which arose during the year of death of her husband and claims for compassionate appointment pertaining to death during that year alone should have been considered along with the claims of the applicant. Clubbing of all the pending claims against vacancies of one year was totally meaningless and against the spirit of the Scheme and other relevant instructions.



7. In the light of what is stated above, I set aside the impugned order Annexure A-1 and direct the respondents to have the case of the applicant considered afresh in the light of the observations made above and to give the applicant a speaking order within a period of three months from the date of receipt of the copy of this order. I also direct that if the applicant is found to be entitled for employment assistance on compassionate ground, on such reconsideration, the offer of appointment should be made to her within one month thereafter. There is no order as to costs.

Dated 15th January, 2003.



A.V. HARIDASAN  
VICE CHAIRMAN

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