

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**O.A.No.532/2007
Dated the 13th day of June, 2008.**

CORAM :

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER.

B Binukumar
Puthenparambil, Eruva PO,
Kayamkulam, Alappuzha.

... Applicant

By Advocate Mr.S.Sujin.

V/s.

1 Chief Commissioner of Income Tax
C R Building,
IS Press Road, Cochin-18

2 Union of India represented by
Secretary,
Ministry of Finance, Department of Revenue,
New Delhi

... Respondents

By Advocate Mr.TPM Ibrahim Khan SCGSC

This application having been heard on 13th June, 2008, the Tribunal on the same day delivered the following

(ORDER)

Hon'ble Mr.George Paracken, Judicial Member

The prayer of the applicant in this Original Application is to direct the respondents to give him appointment to the post of Lower Division Clerk or to any other suitable post on compassionate grounds.

2 The brief facts of the case are that the applicant's father Mr. P.Balakrishna Pillai who was an employee of respondent no.1 namely, Chief Commissioner of Income Tax, Cochin died on 1.6.2002 while in



service. The mother of the applicant had initially made an application to the respondents for appointment on compassionate grounds. The respondents have duly considered her case in terms of the Scheme of Compassionate Appointment issued vide OM No.14014/6/94-Estt.(D) dated 9.10.1998 (R-1), by the Department of Personnel and Training. As only two direct recruitment vacancies (one of Income Tax Inspector and one for Group D) were cleared by the Board for the year 2001-2002, no vacancy for compassionate ground appointment could be earmarked for the said period and therefore, no compassionate ground appointments were made by the department.. The vacancies for the period 2002-03 to 2005-06 reported to the Board were cleared only in the year 2006 vide Board's instructions circulated vide letter in F.No.A-12021/17/2006-Ad-VII dated 7.8.2006 (R-2). Again, since only 5% of the vacancies, out of direct quota could be earmarked for compassionate appointments, no clear vacancies were available for compassionate appointments for the said period also. In the meanwhile, the applicant who was a minor at the time of the demise of his father became a major and his mother requested the respondent department to substitute him in her place for compassionate appointment and he submitted the application for compassionate appointment in the prescribed proforma on 7.2.2005 (Annexure A-4). According to respondents, the applicant was one of the many candidates considered by the "Committee for Compassionate Appointment" for the post of Group 'D'. Since the post of LDC was already abolished in the Income Tax Department there was no question of considering him against



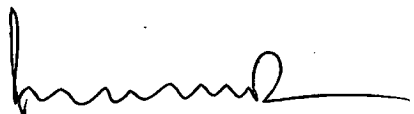
the said post. The applicant was also not considered for post of Tax Assistant as he did not have the minimum qualification of degree prescribed for that post. In the list of candidates considered for appointment for the cadres of Notice Server and Peon, the applicant stood at serial no.8 & 9 respectively against one vacancy each earmarked for compassionate appointment. Since the respondent department could not grant compassionate appointment to the applicant for want of vacancies within the prescribed period, his case was closed.

3 The learned counsel for applicant submitted that in terms of Department of Personnel & Training order No.14014/19/2002-Estt(D) dated. 5.5.2003, the applicant should have been kept in the waiting list for consideration for appointment on compassionate ground for three consecutive years whereas he was considered only for two years.

4 I have heard Advocate S.Sujin for the applicant and Ms.Jisha for Mr. TPM Ibrahim Khan SCGSC for the respondents and I have also perused the entire pleadings on record. It is seen that the applicant's father expired on 1.6.2002. Immediately thereafter, his mother applied for compassionate appointment and she was considered by the department for the years 2002-2003 to 2004-2005. For want of sufficient number of vacancies against the 5% direct recruitment quota, she could not be offered any job during the aforesaid period. Thereafter, the applicant got himself substituted in her place. He was also considered for compassionate appointment for the years 2005-2006 and 2006-2007. No vacancies could be earmarked for compassionate ground appointment



during the year 2005-2006 for want of minimum number of vacancies under the direct Recruitment quota. The position for the year 2006-07, as per the department, was that there were only two vacancies, one each for the post of Income Tax Inspector and Group 'D'. For the post of Notice Server and Group 'D' the applicant is at serial no.8 and 9 of the respective panels. There was no scope for him to get any job from these panels within the prescribed period. In my considered opinion, the respondents have duly considered the case of the applicant but they could not provide him with a job for want of vacancies. In these circumstances, I do not find any merit in the case and therefore, OA is dismissed. There shall be no orders as to costs.



GEORGE PARACKEN
JUDICIAL MEMBER

abp