

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 539 of 2003

Friday, this the 2nd day of January, 2004

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Rajesh B.P,
S/o late Padmanabhan V.K,
Blavath House, Ayyappankavu West,
Kochi.Applicant

[By Advocate Mr. M. Sasindran]

Versus

1. Union of India, represented by its
Secretary to Government,
Ministry of Agriculture, New Delhi.
2. The Director,
Integrated Fisheries Project,
P.B.No. 1801, Kochi - 682 016Respondents

[By Advocate Mr. Sunil Jose, ACGSC]

The application having been heard on 2-1-2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicant seeking compassionate appointment, is the son of late V.K.Padmanabhan, who died in harness on 1-4-1998 while working as Assistant Operator under the 2nd respondent.

2. The applicant made an application for compassionate appointment in accordance with the provisions governing the matter. By Annexure A8 communication dated 27-3-2000, the applicant's mother was informed that the Screening Committee constituted for the purpose of screening the cases for compassionate appointments had examined the financial condition of the family including possession of land and building, terminal benefits received by the family and other

circumstances and that the Committee had come to the finding that the case for compassionate appointment for the dependent son could not be considered favourably. Thereafter, the applicant moved the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala vide judgement dated 22-10-2001 in O.P.No.28463/2000 directed the respondents to consider afresh the applicant's request for compassionate appointment in the light of the decision reported as Commissioner of Income Tax vs. Kishorekumar Shamji [2000 (1) KLT 47] and pass appropriate orders having regard to the material on record. It would appear that the case law cited by the Hon'ble High Court was erroneous and accordingly the Hon'ble High Court later on issued a correction order in CMP.No.54121/2001 arising out of the order in O.P.No.28463/2000 and directed the respondents to consider the case in the light of the decision of the Hon'ble High Court of Kerala in Canara Bank vs. Priya Jayarajan [2001 (1) KLT Short Note at Page 71]. It is seen that the 2nd respondent has, in purported compliance with the directions of the Hon'ble High Court, issued the impugned order dated 11-10-2002 (Annexure A-11), wherein, in substance, the 2nd respondent has reiterated the earlier findings in Annexure A8 communication and rejected the applicant's claim for compassionate appointment. Being aggrieved, the applicant has filed this OA praying for an order of this Tribunal setting aside Annexure A-11 order and a declaration to the effect that the applicant is entitled for appointment under the 2nd respondent as per the compassionate appointment scheme and for a direction to the 2nd respondent to appoint the applicant to the post of Ice Man in the Integrated Fisheries Project.

3. In their reply statement, the respondents have opposed the OA stating that as directed by the Hon'ble High Court, all aspects have been considered in the light of the decision of

the Hon'ble High Court reported in 2001 (1) KLT Short Note at Page 71, that the financial background of the family of the deceased has been carefully examined and an overall assessment has been made, that having regard to several similar claims only the most deserving case could be considered and that taking into account the financial condition of the family like receipt of the retiral benefits, family pension, possession of 10 cents of land and a house in Cochin city and the financial liabilities of the family, the applicant's case for compassionate appointment could not be considered. It is also pointed out that the Integrated Fisheries Project, being the respondent organization, is currently undergoing a complete review and down-sizing of its activities as a result of which the recruitment process has come to a stand still. Prospects of several posts being abolished are looming large and even regular employees holding those posts are liable to be rendered surplus. In such a situation, therefore, there is very little scope for interference by the Tribunal, the respondents would urge.

4. I have gone through the records and have heard Shri M.Sasindran, learned counsel for the applicant and Shri Sunil Jose, learned ACGSC.

5. According to Shri M.Sasindran, learned counsel for the applicant, the impugned Annexure A-11 order is virtually a repetition of Annexure A8 order, which had undergone judicial scrutiny earlier. No new facts have been brought on record. In fact, the decision which the Hon'ble High Court had directed the respondents to consider has not been considered judiciously. According to the learned counsel, possession of a small parcel of land and a small building thereon would not give any financial stability to the family as the said asset

does not yield any income at all. Further, the amount of death-cum-retirement benefits received by the family was partly used up for clearing the liability on account of the marriage of the applicant's sister (the only daughter of the deceased). The meagre amount of family pension, therefore, was totally insufficient to provide any stable support to the family after the death of the deceased, the learned counsel would submit. Apart from the decision of the Hon'ble High Court of Kerala in Canara Bank vs. Priya Jayarajan [2001 (1) KLT Short Note at Page 71], the learned counsel would also invite my attention to another decision of the Hon'ble High Court of Kerala in Suma Mohan vs. Union Bank of India [2002 (2) KLT 672] turning on similar facts and circumstances. He would, therefore, plead that the impugned order be set aside and the respondents be directed to provide compassionate appointment to the applicant.

6. Shri Sunil Jose, learned ACGSC has invited my attention to the elaborate pleadings in the reply statement. He has pointed out that there were several claimants who had to be considered by the Integrated Fisheries Project and the most deserving case alone could be considered in view of the very limited number of vacancies earmarked for compassionate appointment. In fact, the case of the applicant was considered by the respondents along with other cases. There were cases involving more acute financial situation than the applicant. In the case of the applicant, an objective and detailed assessment of the financial background was taken recourse to. The factual background against which the Hon'ble High Court rendered the judgement in Canara Bank vs. Priya Jayarajan [2001 (1) KLT Short Note at Page 71] had also been considered by the respondents in addition to the principles laid down by the Hon'ble Supreme Court with regard to the grant of compassionate appointment. With regard to the financial

condition of the family, it was submitted by the learned counsel that the applicant who is at present more than 30 years old and the widowed mother are the only members of the family who could be considered dependants as on date. The family possessed 10 cents of land and a house within the Cochin city limits. The family is also in receipt of family pension amounting to Rs.4230/- or so. Having regard to these aspects, it was not possible to consider the applicant's case in preference to the cases where the financial condition was weaker, according to the learned counsel for respondents. Learned counsel has also highlighted the great financial crunch which the organization is passing through and the prospects of down-sizing that might visit upon the organization in its wake. In view of the facts and circumstances, the learned counsel would plead that no interference is called for.

7. On a consideration of the relevant facts and circumstances, I find that there is very little scope for interference by the Tribunal in the matter on hand. It is true that the applicant is without job and had made timely efforts in seeking compassionate appointment as per the scheme. However, the scheme provides for compassionate appointment on account of the death of the breadwinner that throws the family into deep financial crisis and indigence. A ceiling of 5% of the direct recruitment vacancies was prescribed for the purpose of affording some succour to those families which are thrown into dire financial straits on account of the death of the sole breadwinner. It is also well settled that the entire financial background of the family has to be ascertained before identifying the most deserving case that can be considered for providing compassionate appointment. In this case, I notice that the respondents have done that exercise with fair amount of objectivity. There is no allegation of bias or malafides in

the exercise. The decision of the Hon'ble High Court of Kerala has also been very elaborately gone into by the respondents as per Annexure A-11 order and therefore, it cannot be said that a speaking order has not been passed. I take note of the fact that the applicant's family received about Rs.4,23,000/- by way of death-cum-retirement benefits and the family is in receipt of more than Rs.4200/- by way of family pension and that the family owns 10 cents of land with a house thereon within the city limits of Cochin. The applicant is a young man of 30. Needless to say, he has to summon his energies to support the family instead of looking to the prop of a compassionate appointment which a more deserving family should get. Having regard to the facts and circumstances of the case, I hold that Annexure A-11 order cannot be faulted. The Original Application, being without merit, is liable to be rejected.

8. Accordingly, the Original Application is dismissed leaving the parties to bear their respective costs.

Friday, this the 2nd day of January, 2004



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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